

**Title 13  
WATER AND SEWERS**

**Chapters:**

- 13.04     Reserved**
- 13.08     Water Regulations**
- 13.12     Water Rates**
- 13.16     Water Supply Cross-Connection and Backflow Prevention**
- 13.20     Sewer Regulations**
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**Comment [ASB1]:** In the future, we recommend adopting a new Chapter 13.04 “Definitions” for the whole of Title 13 (and removing all definitions sections from individual chapters).

**Chapter 13.04**

**RESERVED**

**CHAPTER 13.08**

**WATER REGULATIONS**

**Sections:**

- 13.08.010   Connection to public water required.**
- 13.08.020   Water connection charge – Established.**
- 13.08.030   Water connection charge – Applicability.**
- 13.08.040   Water connection charge – Appeal.**
- 13.08.050   Water flow requirements for new construction.**
- 13.08.060   Requirements are minimums.**

### 13.08.010 Connection to public water required.

A. New construction. The owner of all new houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, is required at his or her expense to install suitable plumbing facilities therein and connect such facilities directly with the city water system prior to the issuance of a certificate of occupancy, or, in the case of residential subdivisions containing five (5) or more lots, prior to final plat approval. Provided, that the construction of accessory buildings, such as a garage or storage shed, that do not include plumbing shall be exempt from the requirements of this subsection (A).

### 13.08.020 Water connection charge – Established.

Payment of a water system general facility charge (GFC) is required for connection. No person shall connect to the city's water system or receive a building permit until such time as the water system general facility charge if required hereunder is paid. The water system general facility charge-GFC shall be set forth in the city's taxes, rates and fees schedule, and shall be deposited in the city's water system capital improvement fund, which shall be used for the purpose of providing capital improvements to the city's water system. shall be in addition to any other charges required by other city ordinances. The water system general facility charge shall be as established by the taxes, rates and fees schedule adopted by city ordinance.

A. New construction. Each single-family dwelling (NBMC 18.06.030) shall be one equivalent residential unit (ERU). Each multifamily dwelling (NBMC 18.06.030) shall be 0.7 ERU. For development other than single-family or multifamily, an ERU shall be 28 cubic meters per month of anticipated water usage. For development other than single-family or multifamily, the general facility charge shall be calculated by dividing the anticipated monthly cubic meter water usage by 28 then multiplying the quotient by the required general facility charge per ERU. Anticipated use shall be determined by the city engineer based upon anticipated property use, water supply line size, plumbing fixture count, and after consultation with accepted state and federal manuals.

B. Existing structures. In the case of an existing water service where there is an intended change in use, or an increase in the intensity of use, then an additional general facility charge shall be paid equal to the number of ERUs in increased anticipated water use.

### 13.08.030 Water connection charge – Applicability.

The water system connection-general facility charge shall apply to all new connections ~~or and to~~ all expansions of buildings, structures, or uses that have previously been connected where fire flow demand is increased or a new residential unit or its equivalent are added; provided ~~further,~~ however, that the residential unit equivalent charge shall only apply to the number of units or their equivalent being added and not to preexisting units or their equivalent.

### 13.08.040 Water connection charge – Appeal.

The property owner may appeal the City's determination of the calculation of any connection charge assessed under this chapter within 21 calendar days of the date the charge is assessed;

**Comment [ASB2]:** NEXT 5 SECTIONS:  
brought over from existing 13.06 or 13.38;  
revisions tracked to existing code language.

**Comment [ASB3]:** DAWN: Could this be clearer?

provided, that the disputed charge must be paid to the city prior to the expiration of the appeal period.

An appeal under this section shall be heard by the city hearing examiner at an open record hearing. The examiner's decision shall be final and conclusive unless a written appeal is filed in superior court according to the city's appeal procedures set forth in Chapter 20.06 NBMC, as now in effect or as may subsequently be amended.

A. If any person feels that the water system connection charge or sanitary sewer connection charge has been improperly calculated pursuant to the terms of this chapter, then they shall have the right to appeal to the examiner;

B. The examiner shall hold an open record hearing;

C. The examiner's decision shall be final and conclusive unless a written appeal is filed in superior court according to the city's appeal procedures as set forth in Chapter 20.06 NBMC, as now in effect or as may subsequently be amended;

D. The examiner shall not hear an appeal until the connection charge has been paid;

E. Decisions of the public works director or examiner shall be appealed within 21 days from the date of issuance.

#### **13.08.050 Water flow requirements for new construction.**

All new construction within the city shall be served by sufficient water flow in order to meet the fire flow policies set forth in the city's ~~1985-2010~~ Water System Plan. The construction of any and all public utilities to meet said fire flow requirements shall be deemed a cost to be paid for by the proponent of any new construction project.

#### **13.08.060 Requirements are minimums.**

The requirements set forth in this chapter are the minimum requirements which must be met. It is recognized that with respect to specific situations, obligations do now and in the future may exist which exceed these requirements, and it is further recognized that other specific provisions of this city code may be supplemental or more stringent, and continue to apply. The requirements of this chapter do not limit the obligations already entered into regarding particular circumstances and uses, nor do they limit the authority of the city to impose more strict requirements should this appear desirable, such as incident to SEPA review.

**Comment [ASB4]:** Need to discuss; see also 13.20.100 re: sewer GFC.

I believe we discussed this at Legal on 1/18, and determined that the GFC appeals should go to the Hearing Examiner. Let's confirm.

**Chapter 13.12**  
**WATER RATES<sup>1</sup>**

**Comment [ASB5]:** Previously 13.08; no substantive changes.

**Sections:**

- 13.12.010 Definitions.**
- 13.12.020 Form.**
- 13.12.030 Use of water.**
- 13.12.040 Arrangement of service pipes.**
- 13.12.050 Service to several houses.**
- 13.12.060 Service pipe placement – Size.**
- 13.12.070 Installation fees.**
- 13.12.080 Placement in relation to sidewalk.**
- 13.12.090 Protection of water meter setter from frost.**
- 13.12.100 Responsibility for repair of service pipe.**
- 13.12.110 Permission required for alteration.**
- 13.12.120 Extension of water mains.**
- 13.12.130 Rates established.**
- 13.12.135 Water companies, water associations, water districts and water processors – Alternate rate.**
- 13.12.140 Due date and delinquent charges.**
- 13.12.150 Delinquent charges.**
- 13.12.160 Monthly charges.**
- 13.12.170 Water companies.**
- 13.12.180 Responsibility for meters.**
- 13.12.190 Meters for building purposes.**
- 13.12.200 Keeping access to meter unobstructed.**

**13.12.210 Meter disconnection.**

**13.12.220 Forbidding use for irrigation or sprinkling.**

**13.12.230 Defacing fixtures.**

**13.12.240 Inspection.**

**13.12.010 Definitions.**

The word “utility superintendent,” whenever used in this chapter, shall be held and construed to mean the utility superintendent of the city. The word “person,” whenever used in this chapter, shall be held to mean and include natural persons of either sex, associations, copartnerships, and corporations, whether acting by themselves or by a servant, agent, or employee; the single number shall be held to include the plural and the masculine pronoun to include the feminine. The word “premises,” whenever used in this chapter in reference to residence, shall be held and construed to mean a single dwelling unit. The words “outside the city limits,” whenever used in this chapter, shall be construed to mean and relate to territory situated beyond the corporate limits of the city of North Bend.

**13.12.020 Form.**

Applications for the use of water in the city’s water service area must be made on printed forms furnished by the city, whereon the applicant must state fully and truly all the purposes for which the water may be required, and must agree to conform to the rules and regulations as a condition for the use of the water. All new services shall be metered. Water shall be furnished at metered rates. The monthly charge for water shall in no case be less than the minimum charge for one month. All meters, meter boxes, and service lines from the main to the meter and valve shall be and remain the property of the city.

Water availability certificates are sometimes necessary for land use proposals and use of water outside the city limits. The fee for a water availability certificate issued by the city shall be as established by the taxes, rates and fees schedule adopted by ordinance.

The fee for water service application and review shall be as established by the taxes, rates and fees schedule adopted by ordinance.

**13.12.030 Use of water.**

No person supplied with water from the city mains will be entitled to use it for any other purpose than those stated in his or her application for the water connection service from the city.

**13.12.040 Arrangement of service pipes.**

The service pipes must be so arranged that the supply to each house or premises may be controlled by a separate water meter setter placed within and near the line of the street curb, and

one person must pay for all water used through said services for his own use or the use of others to whom it may be accessible.

**13.12.050 Service to several houses.**

Where water is now supplied through one service to several houses, families, or persons, the utility superintendent may either decline to furnish water until separate service is provided or may meter this service at the owner's expense. In no case shall the separate minimum service charge for each house, family, or person served be less than the minimum charge for one metered service.

**13.12.060 Service pipe placement – Size.**

When a permit for the introduction of water has been granted, service pipe and connections from the main to and including the stopcock and meter to be placed one foot inside of the curbline will be put in and maintained by the water department and kept within its exclusive control. In case of application for water service on premises not abutting upon a street upon which there is a city water main, the city will lay its connection toward the premises for a distance equal to the distance from the main to the curbline, said distance in no case to exceed 40 feet, and permit connection therewith by means of a union and pipes laid at the expense and maintained by the owner of the service, or may in the discretion of the utility superintendent, upon payment of the actual costs thereof, extend the services to the premises of the applicant along and beneath any public street or avenue of the city. No premises shall be allowed to have more than one service connection, except the connection for fire purposes as hereinafter defined; provided, that in the case of industrial or commercial use, two or more connections may be allowed in which case each meter shall be read and computed separately.

**13.12.070 Installation fees.**

A. The additional charges for the installation of meters and water service connections shall be as established by the taxes, rates and fees schedule adopted by ordinance.

B. The charge for a meter drop to an existing service connection shall be as established by the taxes, rates and fees schedule adopted by ordinance.

**13.12.080 Placement in relation to sidewalk.**

The service pipes from the water meter setter to the building must be placed at least two feet below the grade of the sidewalk and the surface of the ground inside the property line.

**13.12.090 Protection of water meter setter from frost.**

A water meter setter protected from the frost must be placed inside of the property line, with suitable opening or handle maintained, so that the water may be shut off in the event of a break or for repairs or alterations to the fixtures without the water angle valve being closed. Stop and waste cocks should be located where needed in order to drain the pipes in freezing weather.

#### **13.12.100 Responsibility for repair of service pipe.**

A. The maintenance and repair of the service pipe on the user side of the water meter setter is the responsibility of the owner of the premises being served. The owner shall keep said service pipe in good working order.

B. In the case of a leak in the service pipe, the owner may be entitled to an adjustment on his water bill; provided, that within seven days of the leak's discovery by the owner or within seven days of the city notifying the owner of a probable leak, whichever sooner occurs, the owner submits to the city an invoice showing that the leak has been repaired. A leak adjustment shall be available to the owner at the discretion of the city administrator or his designee.

C. If the conditions in subsection B are met, then the water bill in the month the leak is detected shall be adjusted. The adjusted rate for the month in which the leak was detected shall be equal to the average of the water charges of the three-month period consisting of the same month from the previous year as the month the leak was discovered, and the month before and after the previous year. Said three-month average shall be the adjusted rate for the month in which the leak was detected

#### **13.12.110 Permission required for alteration.**

No person will be allowed to make connections with the city mains or to make alterations in any conduit pipe or other fixtures connecting therewith or to connect pipes where they have been disconnected, or to turn off or turn on water on any premises without permission from the city utility superintendent.

#### **13.12.120 Extension of water mains.**

All persons desiring extensions of water mains maintained by the city shall be charged the actual costs of materials, labor, equipment rentals and fringe and overhead costs.

#### **13.12.130 Rates established.**

Monthly charges shall apply to water supplied from the city of North Bend's water distribution system as established by the taxes, rates and fees schedule adopted by ordinance for the following classes of accounts:

- A. Single-family residential units inside the corporate city limits (including units in duplexes, triplexes, apartment houses, condominiums, trailer courts, and other multifamily dwellings), where each unit is supplied with a separate metered water service connection, shall pay the base charge plus an additional charge for each cubic meter of water consumed.
- B. Single-family residential units, duplexes, triplexes, apartment houses, condominiums, trailer courts, and other multifamily dwellings inside the city limits that are jointly served by only one metered water service connection shall pay the base charge plus an additional charge for each cubic meter of water consumed.

- C. Mixed-use buildings (those buildings consisting of any combination of residential and commercial uses inside the corporate limits of the city) that are served by only one metered water service connection shall pay according to the following methodology:
1. One commercial base charge determined by the actual water meter's size, regardless of the number of commercial businesses in the building;
  2. One multifamily base charge determined by the actual water meter's size, regardless of the number of residential units in the building; and
  3. An additional volume charge at the commercial rate for each cubic meter of water consumed.
- D. All other uses within the corporate city limits shall pay the specified base charge plus an additional charge for each cubic meter consumed.
- E. Single-family residential units outside the city limits including units in duplexes, triplexes, and other multifamily dwellings that are served by separate water meter connections shall pay the specified minimum charge plus the charge for each cubic meter consumed.
- F. Single-family residential units, duplexes, triplexes, apartment houses, condominiums, trailer courts, and other multifamily dwellings located outside the city limits that are jointly served by only one metered water service connection shall pay the base charge plus an additional charge for each cubic meter of water consumed.
- G. All other users outside the city limits shall pay the specified base charge plus an additional charge for each cubic meter of water consumed.
- H. The charges relating to water companies, water associations, water districts, and water processors shall be as established by the taxes, rates and fees schedule adopted by ordinance.
- I. Any customer account within the corporate limits of the city serviced by meter connections solely for lawn, garden or landscape watering or other irrigation purposes shall pay the specified base meter charge plus an additional charge for each cubic meter of water consumed.
- J. Contractors may request a temporary connection to the city's water system to obtain water for construction purposes. The city shall determine the location of such a temporary connection, if permitted. The contractor shall pay a deposit for the installation of a water meter and backflow preventer, refundable upon termination of the temporary connection if the meter and backflow preventer remain in good working condition. The contractor shall pay an additional fee for a hydrant permit and an administrative fee for each day that the water meter remains installed. The contractor shall pay an additional charge for each cubic meter of water consumed during the temporary connection.



- K. The base rate charged in the taxes, rates and fee schedule shall be determined by the size of the meter serving the premises.
- L. In addition to any applicable charges set forth in this section, all users responsible for payment of any such charges shall pay a monthly surcharge equal to six percent of the total monthly charges owed by such user to the city for water services.

**13.12.135 Water companies, water associations, water districts and water processors – Alternate rates.**

The council may authorize the mayor to enter into a contract with any water company, water association, water district, or water processor for the provision of water by the city at a rate established by the taxes, rates and fees schedule adopted by ordinance; provided, that the rates established pursuant to any such contract shall be reasonable and shall be available to all public entities purchasing water from the city; and provided further, that the rates established pursuant to any contract with a private entity shall fairly compensate the city for providing water to such private entity.

**13.12.140 Due date and delinquent charges.**

All charges for water supply during a monthly period shall be due and payable upon billing. In addition, any account not paid within 30 days of billing shall be charged a delinquency charge as set forth in NBMC 13.40.070 and shall accrue interest at the maximum lawful allowable rate on the unpaid balance from the due date until paid in full.

**13.12.150 Delinquent charges.**

The city shall have a lien for delinquent and unpaid charges for utility services supplied to the premises and such lien shall be enforceable in the manner as provided by law, including the discontinuance of all city utility services. The discontinuance of service shall be in addition to all other methods of collection and enforcement provided by city ordinance or state statute

**13.12.160 Monthly charges.**

The water rates will be charged to the property owners on a monthly basis without reduction for periods of unoccupancy unless the property owner requests the utility superintendent of the city to disconnect the water supply to the property.

**13.12.170 Water companies.**

For the purpose of this chapter, a water company means any corporation, company, association, joint stock association, partnership, or person, their lessees, trustees or receivers appointed by any court which is engaged in the distribution, sale, or furnishing of water, either for domestic, irrigation, or any other purposes. Water companies shall not be permitted within the corporate boundaries of the city.

#### **13.12.180 Responsibility for meters.**

A. All meters shall be and remain the property of the city and may be installed or removed at the direction of the utility superintendent.

B. In the event of a meter getting out of order and failing to register properly, the consumer shall be charged at the average daily consumption as shown by the meter during the corresponding three-month period of the preceding year. In all cases where meters are lost, injured, or broken by carelessness or negligence of the owners or occupants of the premises, they shall be replaced or repaired by or under the direction of the utility superintendent and the costs charged against the owner or occupant, and in the case of nonpayment, the water service will be terminated and will not be turned on until such charges and the charge for turning on the water are paid.

#### **13.12.190 Meters for building purposes.**

Contractors may, for building purposes, make application for water by meter, and the water department shall set a meter upon approval of said application. Payment shall be made in advance by such contractor for the estimated cost of setting and removing the meter.

#### **13.12.200 Keeping access to meter unobstructed.**

Water consumers shall keep their premises adjacent to the meter free from all rubbish or material of any kind which will prevent the employee of the water department from having access to the meter.

#### **13.12.210 Meter disconnection.**

It is unlawful for any person to disconnect or remove any meter when installed, as provided by this chapter. In case it is necessary to move a meter, notice shall be given to and written permission obtained from the water department.

#### **13.12.220 Forbidding use for irrigation or sprinkling.**

The city reserves the right to make an order forbidding the use of water for irrigation or sprinkling purposes in the event of a water shortage. Whenever the mayor, in consultation with the utilities superintendent, decrees that there is a water shortage, the mayor shall sign an emergency order and proclaim the use of water for washing cars, watering lawns or irrigating gardens to be prohibited and shall publish the order in the local newspaper and shall further specify such restrictions that he deems necessary to conserve water during the periods of water shortage. Any person violating such order shall be subject to a charge as established by the taxes, rates and fees schedule adopted by ordinance as a civil penalty for each offense and the utilities superintendent shall have the authority to terminate the water service to the violator's premises. In no case shall the water be turned on for the use of such offender until such civil penalty has been paid and the charge provided in NBMC 13.40.070 has been paid to the city.

### **13.12.230 Defacing fixtures.**

It is unlawful for any person to break, deface, or damage any water meters, gate, pipe, or other waterworks appliance or fixture, or in any other manner interfere with the proper operation in any part of the water system of the city, and anyone found violating any of these provisions, unless otherwise provided for, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as for other misdemeanors as provided by law.

### **13.12.240 Inspection.**

Agents of the water department shall have access at all proper hours of the day to all parts of the buildings or premises in which water may be delivered from the city mains, for the purpose of inspecting the condition of the pipes and fixtures, and the manner in which the water is used. Upon refusal to permit such inspection, water service may be disconnected and shall not be reconnected until such inspection is permitted, and all delinquent water rates, together with the proper turn-on charges, have been paid. There shall be an inspection fee as established by the taxes, rates and fees schedule adopted by ordinance and a capital improvement charge for the meter size being used by the property owner for meter installations installed by non-city employees. See the taxes, rates and fees schedule for the capital improvement charge.

<sup>1</sup> For statutory provisions regarding service rates for municipal water system, see RCW 35.92.010.

## **Chapter 13.16**

### **WATER SYSTEM – CROSS-CONNECTIONS AND BACKFLOW PREVENTION**

**Comment [ASB6]:** Previously 13.28; no substantive changes.

#### **Sections:**

- 13.16.150 Interpretation and intent.**
- 13.16.160 Conformance to rules and regulations.**
- 13.16.170 Organizations – Conformance.**
- 13.16.180 Definitions.**
- 13.16.190 Cross-connection – Prohibited – Exceptions.**
- 13.16.200 Cross-connection – Failure to discontinue.**
- 13.16.210 Cross-connection – Removal.**
- 13.16.220 Backflow prevention device – Installation.**
- 13.16.230 Backflow prevention device – Degree of hazard.**
- 13.16.240 Backflow prevention device – Location.**

**13.16.250 Backflow prevention device – Installation – Supervision.**

**13.16.260 Protective device – Approval required.**

**13.16.270 Backflow prevention device – Inspections and tests.**

**13.16.280 Failure to comply – Termination.**

**13.16.150 Interpretation and intent.**

The regulations set out in this chapter are to be reasonably interpreted. It is their intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection should be commensurate with the degree of hazard.

**13.16.160 Conformance to rules and regulations.**

Any customer, regardless of whether residing within or without the city limits, who is now receiving water from the city system or who will in the future receive water from the city, shall comply with the rules and regulations contained in this chapter.

**13.16.170 Organizations – Conformance.**

Any water district, municipal organization or other organization which is connected to the city water supply for water and/or which is furnished to people or members within said district or organization shall cause all the people or members within said district or organization, as well as the district or organization itself, to comply with the rules and regulations contained in this chapter.

**13.16.180 Definitions.**

As used in this chapter, unless the context states otherwise, the following definitions shall apply:

A. “Air gap separation” means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supply water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle, and shall be at least double the diameter of supply pipe measured vertically above the flood level rim of the vessel. In no case shall the gap be less than one inch;

B. “Auxiliary supply” means any water source or system, other than the public water supply, that may be available in the building or premises;

C. “Backflow” means the flow other than the intended direction of flow, of any foreign liquids, gases, or substances into the distribution system of a public water supply;

D. “Backflow prevention device” means a device to counteract back pressures or prevent back siphonage;

E. “Back pressure” means backflow caused by a pump, elevated tank, boiler, or other means that could create pressure within the system greater than the supply pressure;

F. “Back siphonage” means a form of backflow due to a negative or subatmospheric pressure within a water system;

G. “Cross-connection” means any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains or may contain contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which, or because of which, backflow could occur;

H. “Customer” means any person, family, business, corporation, partnership or firm connected to the city water supply;

I. “Double check valve assembly” means an assembly composed of two single, independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve;

J. “Reduced pressure principle backflow prevention device” means a device incorporating two or more check valves and an automatically operating differential relief valve located between the two checks, two shutoff valves, and equipped with necessary appurtenances for testing. The device shall operate to maintain the pressure in the zone between the two check valves, less than the pressure on the public water supply side of the device. At cessation of normal flow, the pressure between the check valves shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve shall operate to maintain this reduced pressure by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere, thereby providing an air gap in the device.

#### **13.16.190 Cross-connection – Prohibited – Exceptions.**

Except as provided in Section 13.16.220, all cross-connections as defined in Section 13.16.180G, whether or not such cross-connections are controlled by automatic devices such as check valves, or by hand-operated mechanisms such as a gate valve or stopcocks, are prohibited.

#### **13.16.200 Cross-connection – Failure to discontinue.**

Failure on the part of persons, firms, or corporations to discontinue the use of any and all cross-connections and to physically separate such cross-connections will be sufficient cause for the discontinuance of the public water service to the premises on which the cross-connection exists.

#### **13.16.210 Cross-connection – Removal.**

The utilities superintendent shall, in cooperation with the health officer or the local plumbing inspector, make periodic inspections of premises served by the water supply to check for the presence of cross-connections. Any cross-connections found in such inspection shall be ordered removed by the responsible agency or authority. If an immediate hazard to health is caused by

the cross-connection, water service to the premises shall be discontinued until it is verified that the cross-connection has been removed.

#### **13.16.220 Backflow prevention device – Installation.**

Backflow prevention devices shall be installed at the service connection or within any premises wherein the judgment of the utilities superintendent, the nature and extent of the activities on the premises, or the materials used in connection with the activities, or materials stored on the premises would present an immediate and dangerous hazard to health should a cross-connection occur, even though such cross-connection does not exist at the time the backflow prevention device is required to be installed. This shall include but not be limited to the following situations:

A. Premises having an auxiliary water supply, unless the quality of the auxiliary supply is in compliance with the rules and regulations of the State Board of Health;

B. Premises having internal cross-connections that are not correctable, or intricate plumbing arrangements which make it impracticable to ascertain whether or not cross-connections exist;

C. Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure that cross-connections do not exist;

D. Premises having a repeated history of cross-connections being established or reestablished;

E. Premises on which any substance is handled under pressure so as to permit entry into the public water supply, or where a cross-connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters;

F. Premises where materials of a toxic or hazardous nature are handled such that if back siphonage should occur, a serious health hazard may result;

G. The following types of facilities will fall into one of the above categories where a backflow prevention device shall be installed at these facilities as set forth in this section unless the utilities superintendent determines no hazard exists:

1. Hospitals, mortuaries, clinics,
2. Laboratories,
3. Piers and docks,
4. Sewage treatment plants,
5. Food or beverage processing plants,
6. Chemical plants using a water process,
7. Metal plating industries,

8. Petroleum processing or storage plants,
9. Radioactive material processing plants or nuclear reactors,
10. Others specified by the Secretary of the Department of Social and Health Services.

**13.16.230 Backflow prevention device – Degree of hazard.**

The type of protective device required shall depend on the degree of hazard which exists as follows:

A. An air gap separation or a reduced pressure principle backflow prevention device shall be installed where the water supply may be contaminated with sewage, industrial waste of a toxic nature or other contaminant which would cause a health or system hazard;

B. In the case of a substance which may be objectionable but not hazardous to health, a double check valve assembly, air gap separation, or a reduced pressure principle backflow prevention device shall be installed.

**13.16.240 Backflow prevention device – Location.**

Backflow prevention devices required in this chapter shall be installed at the property line of the premises or at the meter when meters are used or at a location designated by the Secretary of the Department of Social and Health Services or the utilities superintendent of the city.

**13.16.250 Backflow prevention device – Installation – Supervision.**

Backflow prevention devices required in this chapter shall be installed under the supervision of, and with the approval of the city.

**13.16.260 Protective device – Approval required.**

Any protective device required in this chapter shall be a model approved by the Secretary of the Department of Social and Health Services. A double check valve assembly or a reduced pressure principle backflow prevention device will be approved if it has successfully passed performance tests of the University of Southern California Engineering Center or other testing laboratories satisfactory to the Secretary of the Department of Social and Health Services.

**13.16.270 Backflow prevention device – Inspections and tests.**

Backflow prevention devices installed under this chapter shall be inspected and tested annually, or more often where successive inspections indicate repeated failure. The devices shall be repaired, overhauled, or replaced whenever they are found to be defective. Inspections, tests and repairs and records thereof shall be done under the city's supervision. Charges for such inspections shall be as set forth in the Uniform Construction Administrative Code adopted by NBMC 15.02.010.

### **13.16.280 Failure to comply – Termination.**

Failure of any customer or any district organization to cooperate in the installation, maintenance, testing of backflow prevention devices, or the requirements of an air gap separation, shall be grounds for the termination of the water services at a point where such flow, which is to be terminated by the city, would best prevent possible contamination of the public water supply.

## **Chapter 13.20 SEWER REGULATIONS**

**Comment [ASB7]:** Combines and rewrites prior 13.06 and 13.36

### **Sections:**

#### **13.20.005 Definitions.**

#### **13.20.010 King County regulations adopted.**

#### **13.20.020 Connection to public sewer – Required – Exceptions.**

#### **13.20.030 Connection to public sewer – Owner’s cost and expense.**

#### **13.20.040 Connection to public sewer – Variance.**

#### **13.20.050 Private sewage disposal systems prohibited.**

#### **13.20.060 On-site sewage (septic) system requirements.**

#### **13.20.070 Abandonment upon connection to public sewer.**

#### **13.20.080 Sewer connection charge – Established.**

#### **13.20.090 Sewer connection charge – Applicability.**

#### **13.20.100 Sewer connection charge – Appeal.**

#### **13.20.110 Failure to connect to public sewer.**

#### **13.20.120 Permit required – Classes of sewer permits.**

#### **13.20.130 Separate sewer connection required.**



**13.20.140 Use of old building sewers.**

**13.20.150 Excavations.**

**13.20.160 Inspections – Authority.**

**13.20.170 Inspections – Safety provisions.**

**13.20.180 Inspections – Private property.**

**13.20.190 Objectionable wastes – Deposit prohibited.**

**13.20.200 Unlawful discharge into natural outlet.**

**13.20.210 Unlawful discharge into sanitary sewer.**

**13.20.220 Stormwater, industrial cooling water and unpolluted drainage.**

**13.20.230 Prohibited acts.**

**13.20.240 Duty to own and maintain building sewer.**

**13.20.250 Requirements are minimums.**

**13.20.260 Violation – Enforcement.**

**13.20.005 Definitions.**

A. Unless the context specifically indicates otherwise, the meaning of terms in this chapter shall be as set forth in this section:

1. “BOD” (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade expressed in parts per million by weight.
2. “Building drain” means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.
3. “Building sewer” means the extension from the building drain to the public sewer or other place of disposal.
4. “City” means the city of North Bend, Washington.
5. “Combined sewer” means a sewer receiving both surface runoff and sewage.

6. “Commercial establishment” means an establishment involving an activity with goods, merchandise, or services for sale or involving a rental fee.
7. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and the handling, storage, and sale of produce.
8. “Holding tank” means a storage container for raw sewage that has not been dewatered or had the solids settled and separated from the water. It is not associated with septic drainfield systems or other dewatering system for sewage.
9. “Industrial establishment” means an establishment involving manufacturing, assembling, fabrication, processing, bulk handling of products, large amounts of storage, warehousing, and heavy trucking, in addition to lighter industrial activities consisting of uses involving the processing, handling and creating of products.
10. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
11. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.
12. “Person” means any individual, firm, company, association, society, corporation, or group.
13. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
14. “Properly shredded garbage” means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.
15. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
16. “Public works director” means the public works director of the city of North Bend, or his authorized deputy, agent, or representative.
17. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
18. “Septic hauler” means a sewer utility customer with the required permit to dispose of materials from cesspools, septic tanks, holding tanks, and privies into the North Bend wastewater treatment plant.
19. “Septic tank” means a storage container for partially dewatered or settled solids from sewage. This tank is generally the solids storage facility associated with septic drainfield systems.

20. "Sewage" means a combination of the liquid-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
21. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
22. "Sewage works" means all facilities for collecting, pumping, treating, and disposing of sewage.
23. "Sewer" means a pipe or conduit for carrying sewage.
24. "Shall" is mandatory; "may" is permissive.
25. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
26. "Storm drain" (sometimes termed "storm sewer") means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
27. "Suspended solids" means solids that either float on the surface or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
28. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

B. Unless the context specifically indicates otherwise, the meaning of terms in this chapter which have not been defined in this section shall have the meaning defined in [the zoning ordinanceChapter 18.06 NBMC](#).

#### **13.20.010 King County regulations adopted.**

The city hereby adopts the King County Board of Health Codes and all other applicable health standards of the King County Health Department, as currently enacted or as may be subsequently amended, King County Ordinance No. 931, as amended by King County Ordinances 1139 and 1385, is adopted by the city for the purpose of prescribing regulations and controls of sewage disposal systems, providing for certificates of competency for sewage disposal system designers and sewage disposal system installers, requiring permits, and defining offenses, and providing for the protection of human health and safety. These ordinances are adopted and incorporated as fully as if set out at length, and the provisions thereof shall be controlling within the limits of the city. Subject to the provisions of RCW 35.21.180, any future amendments to the King County Ordinance No. 931 shall also be deemed to be amendments to this section.

**13.20.020 Connection to public sewer – Required – Exceptions.**

**Comment [ASB8]:** This entire section has been rewritten since the last Planning Commission meeting on February 9, 2017.

A. New construction. The owner of all new houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, is required at his or her sole cost and expense to install suitable toilet and wastewater facilities therein, and to connect such toilet and wastewater facilities therein directly with the proper public sewer prior to the issuance of a certificate of occupancy, or, in the case of residential subdivisions ~~containing five (5) or more lots~~, prior to final plat or final short plat approval.

1. Exceptions. The requirement to connect to public sewer imposed by this subsection shall not apply in the following circumstances:

- a. New construction of a single-family detached dwelling on an individual parcel, when no existing sewer line is located within 200' of the property line of said parcel as measured along the public right-of-way or dedicated easements. This exception is intended for individual property-owners, and shall be limited to one (1) on-site sewage system on one (1) one parcel.
- b. New construction of an accessory dwelling unit ("ADU") on a parcel served by an existing on-site sewage system ("OSS"), when i) no existing sewer line is located within 200' of the property line of said parcel as measured along the public right-of-way or dedicated easements; or ii) the property owner can demonstrate, by producing written approval from the King County Health Department, that the addition of the ADU will not require expansion or alteration of the existing OSS.
- c. Provided, that the New construction of accessory buildings for residential accessory uses, such as a garage or storage shed, which are not used for human occupancy that do not include plumbing shall be exempt from the requirements of this subsection (A).

B. Existing structures. Any expansion, remodel, restoration, alteration, or changes in use (collectively, "alteration") to an existing structure served by an on-site sewage ~~(septic)~~ system, ~~or "OSS",~~ shall require connection to public sewer, at the property owner's sole cost and expense, ~~if an existing sewer line is located within 200' of the property line as measured along the public right of way or dedicated easements. In all other instances, the continued use of an existing OSS shall be permitted as set forth in Table 13.04 A.~~

1. Exceptions. The requirement to connect to public sewer imposed by this subsection shall not apply in the following circumstances:

- a. The existing structure is a residential use, and no existing sewer line is located within 200' of the property line as measured along the right-of-way or dedicated easements.
- b. The property owner can demonstrate, by producing written approval from the King County Health Department, that the alteration of the existing structure will not require expansion or alteration of the existing OSS.

c. The alteration of the existing structure is intended to create an accessory building for residential accessory uses, such as a garage or storage shed, which is not used for human occupancy.

C. Failing OSS. Upon the City's receipt of a letter from a King County Health Department-registered sanitarian indicating that an OSS for an existing structure within the City limits is failing, the property owner shall be required, at his or her sole cost and expense, to disconnect and abandon the OSS in accordance with all applicable King County health regulations, and to connect to public sewer; provided, that if no existing sewer line exists within 200' feet of the property as measured along the public right-of-way and dedicated easements, the property owner shall be required to repair the failing OSS in accordance with all applicable King County health regulations. Failure to connect to public sewer or repair a failing OSS as required by this subsection shall be a violation of this Title 13 subject to enforcement under Chapter 1.20 NBMC and applicable provisions of this title.

CD. Threat to public health. Notwithstanding anything to the contrary herein, existing structures shall be required to connect to public sewer when the King County Health Department, City of North Bend, or other agency with jurisdiction determines that a condition exists affecting the OSS which constitutes a health hazard or threat to public safety.

E. King County Health Department approval required. Any expansion, repair or replacement of an existing OSS permitted under this chapter shall be approved by the King County Health Department prior to issuance of an associated city permit.

F. Regular maintenance permitted. Nothing in this chapter shall be construed to prevent or condition the regular maintenance and upkeep of a functioning OSS in accordance with applicable King County health regulations.

G. Table of Sewer Connection Requirements. The following Table 13.20-A summarizes and describes connection requirements for the development activities, consistent with the provisions of this Section 13.20.020.

**Table 13.20-A: Table of Sewer Connection Requirements**

<u>Proposed Development Activity</u>	<u>Property where an existing sewer line is located within 200' of the property line as measured along the public right-of-way and dedicated easements.</u>	<u>Property where no existing sewer line is located within 200' of the property line as measured along the public right-of-way and dedicated easements.</u>
<b><u>NEW CONSTRUCTION</u></b>		
<u>Commercial or multi-family</u>	<u>Connection to public sewer required</u>	<u>Connection to public sewer required</u>

<u>Plat or short plat</u>	<u>Connection to public sewer required</u>	<u>Connection to public sewer required</u>
<u>Single-family detached dwelling</u>	<u>Connection to public sewer required</u>	<u>Installation of OSS permitted<sup>1</sup></u>
<u>Accessory dwelling unit which necessitates expansion of existing OSS</u>	<u>Connection to public sewer required<sup>2</sup></u>	<u>Expansion or replacement of existing OSS permitted<sup>3,4</sup></u>
<u>Accessory dwelling unit which does not necessitate expansion of existing OSS</u>	<u>Continued use of existing OSS permitted</u>	<u>Continued use of existing OSS permitted</u>
<b>EXISTING STRUCTURES</b>		
<u>Alteration of commercial or multi-family structure which necessitates expansion of existing OSS</u>	<u>Connection to public sewer required</u>	<u>Connection to public sewer required</u>
<u>Alteration of a single-family detached dwelling or accessory building which necessitates expansion of existing OSS</u>	<u>Connection to public sewer required</u>	<u>Expansion or replacement of existing OSS permitted<sup>3,4</sup></u>
<b>FAILING OSS</b>		
<u>Letter received from a KCHD-registered sanitarian indicating that an existing OSS is failing</u>	<u>Connection to public sewer required</u>	<u>Repair or replacement of existing OSS permitted<sup>3,4</sup></u>

**Comment [ASB9]:** LYNN/MARK: should either of these be subject to notes 3 & 4 below?

<sup>1</sup> See NBMC 13.20.020(A)(1)(a) – intended for individual property owners constructing one OSS on one parcel.

<sup>2</sup> The addition of an ADU requiring connection to public sewer shall not create an independent requirement that the primary dwelling or building also connect to public sewer.

<sup>3</sup> Subject to NBMC 13.20.060(A)–(D).

<sup>4</sup> The issuance of a city permit shall be conditioned upon the prior written approval of the King County Health Department for the installation, construction, expansion, repair, rehabilitation or replacement of an OSS.

**Table 13.04 A: Sewer Connection for Existing Structures**

	No expansion; no increase in bedrooms	Expansion; no increase in bedrooms	Expansion; increase in bedrooms	No expansion; increase in bedrooms	Failing OSS <sup>5</sup>
<b>Sewer availability within 200<sup>2</sup> of property line</b>	Continued use of existing OSS permitted <sup>1</sup>	Connection to public sewer required	Connection to public sewer required	Connection to public sewer required	Connection to public sewer required
<b>Sewer not available within 200<sup>2</sup> of property line</b>	Continued use of existing OSS permitted <sup>1</sup>	Continued use of existing OSS permitted <sup>1,2</sup>	Continued use and expansion or replacement of existing OSS permitted <sup>1,2,3,4</sup>	Continued use and expansion or replacement of existing OSS permitted <sup>1,2,3,4</sup>	Repair or replacement of failing OSS permitted <sup>1,2,3,4</sup>

<sup>1</sup>—Subject to NBMC 13.20.060(A).

<sup>2</sup>—Subject to NBMC 13.20.060(B).

<sup>3</sup>—Subject to NBMC 13.20.060(C) (D).

<sup>4</sup>—Subject to NBMC 13.20.060(E).

<sup>5</sup>—An OSS is considered “failing” upon the city’s receipt of a letter from a KCHD registered sanitarian indicating that such system is failing. Failure to connect to public sewer or repair a failing OSS shall be a violation of this Title 13 subject to enforcement under Chapter 1.20 NBMC and applicable provisions of this Title 13.

**13.20.030 Connection to public sewer – Owner’s cost and expense – Option to initiate ULID.**

A. When connection to public sewer is required, and sewer is not available within 200’ of the property line subject to that requirement, the property owner shall enter into a developer extension agreement with the city for the purpose of extending sewer facilities to the property.

B. All costs and expense incident to the extension, installation and connection to public sewer shall be borne by the property owner. The property owner shall indemnify the city from any loss

**Comment [ASB10]:** This is a new provision, which states very clearly that when connection to sewer is required, even if sewer isn’t available w/in 200 feet, the property owner or developer is responsible for making it happen.

Or, alternatively under (C), the property owner or developer may initiate a ULID petition.

or damage that may directly or indirectly be occasioned by the installation of sewer facilities and connection to public sewer.

C. As an alternative to the obligation to extend public sewer under subsection (A) above, the property owner may initiate the formation of a utility local improvement district (ULID) to fund the cost of extending public sewer pursuant to Chapter 35.43 RCW; provided, that the property owner must submit a sufficient ULID petition within 90 days of issuance of notice that connection to public sewer is required.

#### **13.20.040 Connection to public sewer – Waiver – Variance.**

A. Waiver. The Public Works Director may, at his or her discretion, waive the requirement to connect to public sewer under NBMC 13.20.020(A) if:

1. The building or property is a public facility funded by tax dollars; and
2. The building or property is owned and operated by a public agency for the public benefit; and
3. The septic drainfield is located on a lot area greater than or equal to 10 acres; and
4. The septic drainfield is located on publicly owned property and is operated and maintained by a public agency; and
5. The septic system complies with the requirements of NBMC 13.20.060(BA)–(D).

B. Variance. Any property owner may apply for a variance from the sewer connection requirements contained in NBMC 13.20.020 to allow for an on-site sewage (septic) system, which application shall be made on a form provided by the City and evaluated by the public works director. Applicants for preliminary plats or preliminary short plats may not apply for a variance under this subsection.

1. Applications for a variance requested under this subsection shall be granted only if the public works director finds that shall approve a variance requested under this subsection if all of the following criteria are met:
  - a. The property is more than 200' (or such other distance as may be required by King County Health Department on-site sewage regulations) from the existing public sewer system, as measured along the right-of-way or dedicated easements; and
  - b. The proposed OSS complies with the requirements of NBMC 13.20.060(B)–(D); and
  - c. The cost of extending sewer to the property would result in an economic hardship to the property owner. For the purposes of this subsection, “economic hardship” means an unrecoverable cost equal to or exceeding 20 percent of the fair market value of the building site with sewer facilities installed, or if the property is already developed, 20 percent of the fair market value of the building and building site with sewer facilities installed; and;



d. The application satisfies the variance criteria set forth in NBMC 18.26.040(A)–(G).

2. Any variance granted pursuant to this subsection ~~(B)~~ shall be conditioned upon the property owner's execution of a ULID No-Protest agreement in accordance with NBMC 13.20.060(A).

#### **13.20.050 Private sewage disposal systems prohibited.**

Except as permitted by NBMC 13.20.020 or 13.20.040, it is unlawful to install, construct, maintain, expand, rehabilitate or replace a privy, privy vault, septic tank, cesspool, drainfield, or other facilities intended or used for the disposal of sewage within the city.

#### **13.20.060 Requirements for on-site sewage (septic) systems.**

A. Agreement to connect. Any installation, construction, expansion, maintenance, repair, rehabilitation or replacement of an existing on-site sewage system (OSS) permitted under this chapter is conditioned upon the property owner's execution of an agreement not to protest the formation of a local improvement district (LID) or utility local improvement district (ULID) for the extension of sanitary sewer if the subject property is included in the proposed district as a benefited property (a "ULID No-Protest"); provided, that the execution of a ULID No-Protest shall not limit the property owner's right to protest an assessment roll associated with the formation of such ULID. The ULID No-Protest shall be recorded with the King County Recorder's Office and shall run with the land. A copy of the recorded ULID No-Protest shall be delivered to the City prior to the issuance of the associated building or development permit(s).

B. Compliance with county health regulations. Any installation, construction, expansion, repair, rehabilitation or replacement of an existing OSS permitted under this chapter is conditioned upon the property owner obtaining the approval of the King County Health District (KCHD) for such expansion, repair, rehabilitation or replacement, and complying with all applicable KCHD regulations and requirements.

C. Preservation of public health and safety. Any installation, construction, expansion, repair, rehabilitation or replacement of an existing OSS permitted under this chapter shall be designed and implemented so that the public health, safety, and welfare will not be endangered and said system will comply with the King County Board of Health Codes and all other applicable city's health standards of the King County Health Department.

D. Preservation of environment. Any installation, construction, expansion, repair, rehabilitation or replacement of an existing OSS permitted under this chapter shall be designed and implemented such that it will not have an adverse impact on potable water wells, ground water, streams, or other surface bodies of water.

~~E. Limitation on repair, expansion or replacement. Notwithstanding anything to contrary in this chapter, only one expansion, repair, rehabilitation or replacement is permitted under the provisions of this chapter for each existing OSS within the city. Subsequent failure of the septic system, or any expansion, remodel, restoration, alteration or changes in use of the property shall require connection to public sewer.~~

### 13.20.070 Abandonment upon connection to public sewer.

Upon connection to the public sewer as required by NBMC 13.04 or 13.08, or pursuant to an agreement that requires connection to the public sewer when public sewer becomes available, any existing septic tank, cesspool, drainfield, or similar private sewage disposal facilities shall be abandoned and filled with suitable material in accordance with Department of Health specifications.

### 13.20.080 Sewer connection charge – Established.

Payment of a sanitary sewer system general facility charge (GFC) is required for connection. No person shall connect to the city's sanitary sewer system or receive a building permit until such time as the sanitary sewer system general facility charge if required hereunder is paid. The sanitary sewer system GFC shall be set forth in the city's taxes, rates and fees schedule, and shall be deposited in the city's sanitary sewer capital improvement fund, which shall be used for the purpose of providing capital improvements to the city's sanitary sewer system, including the city's wastewater treatment plant. general facility charge shall be in addition to any other charges required by other city ordinances. The sanitary sewer system general facility charge shall be established by the taxes, rates and fees schedule adopted by ordinance per equivalent residential unit (ERU).

A. New construction. Each single-family dwelling (NBMC 18.06.030) together with permitted associated accessory dwelling units shall be one ERU. Each multifamily dwelling (NBMC 18.06.030) shall be 0.7 ERU. For development other than single-family or multifamily, an ERU shall be 23 cubic meters per month of anticipated wastewater flow. For development other than single-family or multifamily, the general facility charge is based on the water meter size and the 2016 rate study prepared by Tetra Tech, Inc. and FCS Group shall be calculated by dividing the anticipated monthly cubic meter wastewater flow by 23 then multiplying the quotient by the required general facility charge per ERU. Anticipated flow shall be determined by the city engineer based upon anticipated property use, water supply line size, plumbing fixture count, and after consultation with accepted state and federal manuals.

B. Existing structures. In the case of an existing sanitary sewer service where there is an intended change in use, or an increase in the intensity of use, then additional connection charges shall be paid equal to the number of ERUs in increased anticipated wastewater use flow.

### 13.20.090 Sewer connection charge – Applicability.

The sanitary sewer connection-general facility charge shall apply to all new connections or and to all expansions of buildings, structures, or uses that have previously been connected where fire flow demand is increased or a new residential unit or its equivalent are added; provided further, however, that the residential unit equivalent charge shall only apply to the number of units or their equivalent being added and not to preexisting units or their equivalent.

### 13.20.100 Sewer connection charge – Appeal.

The property owner may appeal the City's determination of the calculation of any connection charge assessed under this chapter within 21 calendar days of the date the charge is assessed;

**Comment [ASB11]:** Brought over from existing 13.38; revisions tracked to existing code language.

**Comment [ASB12]:** This revision updates the Code to accurately describe the current calculation of GFCs for non-residential uses.

**Comment [ASB13]:** MARK: please confirm this is correct (no need to include mention of council approval here in the code)

**Comment [ASB14]:** Brought over from existing 13.38.050; revisions tracked to existing code language.

**Comment [ASB15]:** DAWN: Could this be clearer?

**Comment [ASB16]:** Brought over from existing 13.38.060; revisions tracked to existing code language.

provided, that the disputed charge must be paid to the city prior to the expiration of the appeal period.

An appeal under this section shall be heard by the city hearing examiner at an open record hearing. The examiner's decision shall be final and conclusive unless a written appeal is filed in superior court according to the city's appeal procedures set forth in Chapter 20.06 NBMC, as now in effect or as may subsequently be amended.

~~A. If any person feels that the water system connection charge or sanitary sewer connection charge has been improperly calculated pursuant to the terms of this chapter, then they shall have the right to appeal to the examiner;~~

~~B. The examiner shall hold an open record hearing;~~

~~C. The examiner's decision shall be final and conclusive unless a written appeal is filed in superior court according to the city's appeal procedures as set forth in Chapter 20.06 NBMC, as now in effect or as may subsequently be amended;~~

~~D. The examiner shall not hear an appeal until the connection charge has been paid;~~

~~E. Decisions of the public works director or examiner shall be appealed within 21 days from the date of issuance.~~

### **13.20.110 Failure to connect to public sewer.**

If the owner of any dwelling, commercial building or other structure fails to connect to public sewer within 90 days after issuance of notice that such connection is required pursuant to this title or pursuant to the terms of any agreement that requires connection to the public sewer when public sewer becomes available, the following provisions shall apply:

- A. The property shall be subject to a **monthly sewer service fee** the same as if such dwelling or other structure were in fact connected to the sewer system; and
- B. The property shall be subject to the **monthly availability charge for sewer service**; and
- C. A lien shall be recorded against the property for all fees due under this section; and
- D. If the required connection is not made within one year after issuance of notice that such connection is required, or within the deadline set forth in any connection agreement, the city attorney shall enforce the connection requirements by filing a lawsuit in King County Superior Court and seeking that the court order the property owner to make the required connection. If the city prevails in such suit, the property owner shall be liable for the city's costs and reasonable attorneys' fees in pursuing such action.

**Comment [ASB17]:** The previous appeal provision (see strikeout (D)) stated that "the examiner shall not hear an appeal until the connection charge has been paid", which is a good deterrent to "stalling" appeals. However, a party may appeal within 21 days then drag out payment as long as he doesn't care about actually having the hearing. Requiring payment of the GFC within the appeal period ensures that the City gets paid, regardless of the owner's enthusiasm for his own appeal.

**Comment [ASB18]:** Originally from 13.36.030(C)

**Comment [ASB19]:** Originally from 13.36.370. DAWN: Is this different than the "monthly sewer service fee"?

### 13.20.120 Permit required – Classes of sewer permits.

A. Sewer permit required. No unauthorized person shall uncover, make any connections with or opening into, or use, alter or disturb any public sewer or appurtenance thereof without first obtaining the appropriate sewer permit from the city.

~~B. Classes of sewer permits. There shall be four classes of building sewer permits:~~

~~Class A Sewer Permit: Single family residential and condominium;~~

~~Class B Sewer Permit: Multifamily units and temporary living units, apartments, motels and mobile homes;~~

~~Class C Sewer Permit: Commercial establishments;~~

~~Class D Sewer Permit: Industrial establishments.~~

~~CB.~~ Application and fee. For all classes of sewer permits, the property owner or his agent shall make application on a form furnished by the city. The sewer permit application shall be supplemented by any plans, specifications or other information considered pertinent by the public works director. A sewer permit and inspection fee, as set forth in the city's taxes, rates and fees schedule, shall be paid to the city at the time the permit application is filed.

### 13.20.130 Separate sewer connection required for each building—Exception.

A. Single-family residential. A separate and independent ~~building~~ sewer connection shall be provided for every ~~building~~tax parcel, and an accessory dwelling unit may share a sewer with the primary dwelling on the same parcel, which together shall be subject to one connection charge. ~~Provided, that, except~~ where one ~~building~~single-family dwelling stands at the rear of another or on an interior lot, and no private sewer ~~is available or~~ can be constructed to the rear ~~building~~dwelling, only one sewer shall be required for both the front and rear primary dwellings, with associated accessory dwelling units and the whole is considered as one building sewer.

B. Commercial or multi-family. A separate and independent sewer connection shall be provided for every building.

### 13.20.140 Use of old building sewers.

Old building sewers may be used in connection with new buildings only when, upon examination and testing by the public works director, said sewer is found to meet all requirements of this chapter.

### 13.20.150 Excavations.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

**Comment [ASB20]:** The City no longer utilizes distinct classes of sewer permits.

#### **13.20.160 Inspections – Authority.**

The public works director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties pursuant to Chapter 1.16 NBMC for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The ~~superintendent-public works director or~~ and his ~~representatives-agents~~ shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

#### **13.20.170 Inspections – Safety provisions.**

While performing the necessary works on private properties referred to in NBMC 13.34.260 through 13.34.280, the public works director or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in NBMC 13.34.270 and 13.34.280.

#### **13.20.180 Inspections – Private property.**

The public works director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement, which shall be performed in full accordance with the terms of the easement pertaining to the private property involved.

#### **13.20.190 Objectionable wastes – Deposit prohibited.**

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.

#### **13.20.200 Unlawful discharge into natural outlet.**

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter.

#### **13.20.210 Unlawful discharge into sanitary sewer.**

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

#### **13.20.220 Stormwater, industrial cooling water and unpolluted drainage.**

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as combined sewers or storm sewers, or to a natural outlet approved by the public works director. Industrial cooling water or unpolluted process waters may be discharged, on approval of the public works director, to a storm sewer, combined sewer, or natural outlet.

#### **13.20.230 Prohibited acts.**

A. Damaging or tampering with sewage. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage work.

B. Planting trees adjacent to sewers. Any person who plants trees adjacent to sewers such that the roots of such trees enter, obstruct or damage the public sewer system in any way shall be held responsible for associated inspection and repair costs.

#### **13.20.240 Duty to own and maintain building sewer.**

It shall be the responsibility of the property owner to own and maintain the building sewer and appurtenances, including but not limited to check valves, cleanouts, and pumps, from the connection at the main of the public sewer to the building. In the event that more than one property is served by a single building sewer, it shall be the responsibility of all property owners using the building sewer to jointly maintain the portion of the building sewer serving more than one property.

#### **13.20.250 Requirements are minimums.**

The requirements set forth in this chapter are the minimum requirements which must be met. It is recognized that with respect to specific situations, obligations do now and in the future may exist which exceed these requirements, and it is further recognized that other specific provisions of this city code may be supplemental or more stringent, and continue to apply. The requirements of this chapter do not limit the obligations already entered into regarding particular circumstances and uses, nor do they limit the authority of the city to impose more strict requirements should this appear desirable, such as incident to SEPA review.

#### **13.20.260 Violation – Enforcement.**

A. Any person found in violation of any provision of this chapter shall be liable to the city for any expense, loss or damage incurred by the city as a result of such violation.

B. In addition to the remedies, liens, penalties and procedures set forth in this chapter, the violation of any provision of this chapter may be enforced in accordance with Chapter 1.20 NBMC.

## **CHAPTER 13.24**

### **SEWER RATES**

**Comment [ASB21]:** This new chapter contains sewer rate provisions previously found in 13.36.270 and -.280

#### **Sections:**

##### **13.24.010 Sewer rates.**

##### **13.24.020 Charges – When due – Delinquent charges.**

##### **13.24.010 Sewer rates.**

Monthly charges, as ~~established by~~ set forth in the taxes, rates and fees schedule adopted by ordinance, shall apply to the following classifications of users of the city sewer system:

- A. Each single-family residential unit inside the corporate limits of the city (including units in duplexes, triplexes, apartment houses, condominiums, trailer parks, and other multifamily dwellings), where each unit is supplied with a separate metered water service connection, shall pay the base sewer charge plus an additional charge per cubic meter of water consumed over an initial 10 cubic meters consumed that month as measured by the water meter.
- B. Single-family residential units, duplexes, triplexes, apartment houses, condominiums, trailer courts, and other multifamily dwellings inside the corporate city limits that are serviced by only one metered water service connection shall pay the base charge for each residential unit plus an additional charge per cubic meter of water usage over the initial 10 cubic meters of water consumed that month as measured by the water meter.
- C. Mixed-use buildings (those buildings consisting of any combination of residential and commercial uses) inside the city limits that are served by only one metered water service connection shall pay according to the following methodology:
  1. One commercial base charge, regardless of the number of commercial businesses in the building;
  2. A multifamily base charge for each residential unit in the building; and
  3. An additional charge, at the commercial rate, for each cubic meter of water usage over the initial 20 cubic meters of water consumed that month for the entire building as measured by the water meter.
- D. All other users inside the city limits shall pay the specified base charge plus an additional charge for each cubic meter of water consumed over the initial 10 cubic meters of water consumed that month as measured by the user's water meter.

- E. All users outside the city limits shall pay the base charge plus an additional charge for each cubic meter of water consumed over the initial 10 cubic meters of water consumed that month as measured by the user's water meter.
- F. In the event that any user of the sewage system, by reason of the user's activities, is in two or more of the classifications set out in this section, the rate for such users shall be the highest rate established for any such classification.
- G. In the event that a user of the sewage system obtains water from a metered system other than the city's water system, the charges for sewer system usage shall be based on the meter readings from the purveyor of the water supply. As a condition of sewer service, the property owner shall sign an agreement with the city authorizing the water purveyor to provide the city water use records for the building to be served by sewer.
- H. In the event the user of the sewage system obtains water from a private source that is not metered, the user shall pay the prescribed base fee for the associated uses in the building as set forth in the taxes, rates and fees schedule.
- I. A user of the sewage system may apply in writing to the city administrator for a sewage charge adjustment. The burden is on the user to demonstrate by clear and convincing evidence based on studies and other data that the water consumption used to calculate the sewage charge is greatly disproportionate to the user's impact on the sewage system as compared to other users of the sewage system. Requesting such an adjustment does not extend the period for payment of the sewage charge. An adjustment on a delinquent account shall not be made until the account is paid in full. The city administrator shall establish processes and procedures for reviewing requests for adjustments and may revoke an adjustment at any time. The decision of the city administrator shall be final.
- J. In addition to any applicable charges set forth in this section, all users responsible for payment of any such charges shall pay a monthly surcharge equal to six percent of the total monthly charges owed by such user to the city for sewer services.

#### **13.24.020 Charges – When due – Delinquent charges.**

All charges pursuant to NBMC 13.36.030 and for sewer services supplied during a monthly period shall be due and payable upon receipt. All charges remaining unpaid shall be subject to the provisions of NBMC 13.40.070. All delinquent charges shall be a lien against the property served and shall be perfected and enforced as provided by the laws of the state governing municipal utility liens.

### **Chapter 13.28**

## **SEWER CONNECTION INCENTIVE PROGRAM**

**Comment [ASB22]:** Previously 13.37; no substantive changes.

### **Sections:**

#### **13.28.010 Sewer connection incentive program – Established.**



**13.28.020 Definitions.**

**13.28.030 Sewer connection incentive program requirements.**

**13.28.010 Sewer connection incentive program – Established.**

A. The “sewer connection incentive program” (SCIP) is hereby established, to be funded by the moneys presently in the sewer expansion and improvement fund. The city may add or deduct moneys into said sewer connection incentive program as necessary to accomplish the program’s purposes as set forth in this chapter.

B. This fund is established to provide incentive to owners or residential property with existing septic sewer systems to connect to the public sewer system when it becomes available. Acceptance into this program is a privilege, not a right. The city maintains the discretion to consider all circumstances when reviewing an application, including other funds that may be available, including supplemental funding such as grants or other loans.

**13.28.020 Definitions.**

As used in this chapter, except where the context clearly indicates a different meaning:

“Applicant” means a homeowner(s) who applies to the sewer connection incentive program (SCIP) for a loan of funds from the sewer connection incentive fund to benefit the applicant’s existing single-family residence in which the applicant resides. All applicants must be residing in the family residence at the time of application and payments under the installment contract.

“Connection to public sewer” means issuance of a sewer connection permit to physically make such connection and subsequent connection.

“Equity value” means the amount by which the assessed value of a residence, as determined from the records of the county assessor, exceeds the total amount of any liens or other obligations against the property.

“Low income” means a household that has 50 percent or less of the median family income as defined in guidelines for the state of Washington community development block grant program for King County.

“Ownership interest” means a property interest in an existing single-family residence under a recorded deed or under a contract of purchase, recorded mortgage, recorded deed of trust or recorded lease by which the applicant is responsible under penalty of forfeiture, foreclosure or default for payment of real property taxes and/or local improvement district assessments. The term shall also include a share ownership in a cooperative housing association, corporation or partnership if the applicant can establish that his or her share represents the specific unit or portion of such structure in which he or she resides.

### **13.28.030 Sewer connection incentive program requirements.**

A. Authorized Expenditures. Sewer connection incentive program funds shall be used or dispersed only for the purposes set forth in this section and for the following purposes:

1. To finance a sewer general facility charge imposed upon an existing single-family residential property by NBMC 13.36.030;
2. To finance the actual capital costs to an owner of an existing single-family residential property to connect the property to a city sewer main and to pay for the costs of abandonment of the septic system for the property as documented by an invoice from a licensed contractor; and
3. To finance latecomer fees.

B. Eligibility for SCIP. Payments as set forth in subsection A of this section shall be made subject to the following eligibility criteria:

1. In order to qualify for the SCIP, the applicant must be low income as shown in the current guidelines set by the state of Washington community development block grant program for King County.
2. The property is an existing single-family residential property. New construction is not eligible for an installment contract.
3. The property is on a septic or other on-site sewage disposal system and is not connected to sewer.
4. The property has sewer available whether constructed by the city or by a developer, or through other approved methods; provided, that “available” as used in this section means that the sewer abuts the property or said property is within 200 feet of the sewer main and the public works director has determined that a sewer main extension across said property is not feasible.
5. The applicant for an installment contract is the owner of record of the property.
6. The applicant pays all application and permit fees as required by city code and meets all current code requirements for connections.
7. The applicant must enter into loan and security agreements with the city providing for repayment and financing of the SCIP funds expended for the property.

C. Application Process.

1. Application for SCIP funds shall be made on the form provided by the city.
2. Each application for SCIP shall be accompanied by an application fee in the amount set forth in the taxes, rates and fees schedule.

3. Completed applications shall be delivered to the public works department.
4. The public works department, with assistance of the city attorney, shall adopt appropriate forms for administration of the deferral program consistent with this chapter.

D. Loan Terms and Conditions.

1. The terms of the loan shall be as follows:
  - a. The loan will be structured as a promissory note or similar security instrument to be prepared by the city attorney, who is authorized to add provisions in addition to these mandatory provisions.
  - b. A down payment of 10 percent of the total general facilities charge and special connection charges and costs of abandonment, if applicable, payable prior to execution of the contract. This payment must be made in addition to any credit available to certain property owners under the NBMC.
  - c. The term of the note shall not exceed six years, commencing at the time the property is connected to the sewer.
  - d. The note will bear interest at the annual rate of two percent above the city's current investment yield at the time of the loan or interest at the same rate as the effective annual interest of the most recent North Bend local improvement district bond issue or sewer utility revenue bond issue, whichever is most recent, computed monthly on unpaid balances.
  - e. The note will be secured by an interest in the property and shall be recorded prior to connection. The property interest may take the form of a lien, a deed of trust, or such other instrument as may be acceptable to the city.
  - f. The note shall provide for acceleration of the payment of principal upon default of any payment. In the event of default, the city shall have all available remedies, including, but not limited to, foreclosure of its interest in the property, notification to credit bureaus, use of collection agencies, and terminating service.
  - g. Loan principal and interest charges will be billed by the city and be due monthly with the sewer utility bill.
  - h. There shall be no penalty for prepayment of principal.
  - i. Administrative fees may be imposed for late payments.
  - j. The note will contain a due on sale clause that provides for payment in full of all outstanding principal and interest upon sale, transfer, or redevelopment of the property.

2. Any and all funds disbursed shall be paid directly to the sewer service installer after receipt and approval of an invoice. Payment will only be made after the city has inspected the installation of the new sewer service and the abandonment of the septic system.
3. The number and amount of installment contracts or loans shall be limited by available funds. The amount of available funds shall be at the discretion of the city council and shall be determined periodically by city council motion, resolution, or ordinance.
4. Security Provisions. The city shall not approve a loan unless the applicant and his or her spouse, if any, have signed a contract with the city providing that:
  - a. The city shall have a secured interest in the form of a lien, deed of trust or other document, on the benefited property in an amount equal to the amount of the loan, plus interest at the same rate of interest as set forth in the payment agreement, computed to the date the payment is made.
  - b. The applicant shall have and keep in force fire and casualty insurance on the benefited property in sufficient amount to protect the interest of the city in the property. Proof of insurance shall be provided to the city on an annual basis.
  - c. The obligations, pursuant to this section, shall become due and payable in full, as set forth in the note, including principal and accrued interest or upon the earliest of the following dates:
    - i. Upon the sale of property which is the subject of the loan;
    - ii. Upon the death of the applicant, except that a surviving family member who is qualified under this chapter may elect to continue the loan, provided they are residing on the property;
    - iii. Upon the condemnation of property by a public or private body exercising eminent domain power, except as otherwise provided in RCW 84.60.070 for properties subject to a lien for taxes;
    - iv. Expiration of the loan agreement.
  - d. Each contract executed pursuant to this section shall be recorded by the city with the county auditor.
5. The general facilities charge and special connection charge, if applicable, must be paid in full or the installment contract must be executed and recorded, as a condition precedent to the issuance of a permit for connection to the city sewer system.

E. Prioritization Criteria. The city may develop administrative criteria for prioritizing selection of projects and applications for assistance under SCIP taking into consideration the following:

1. Near proximity to groundwater supply.

2. Viability of existing septic systems in an area or particular property. For example, applicants in an area with failing systems may take priority over applicants in other areas.
3. Total cost of connection.
4. Other available funding resources for sewer construction and connections.
5. The availability of loan funds.
6. Other ongoing or proposed city projects.

F. Unpaid Charges.

1. Delinquent payments of general facilities charges and/or special collection charges under such installment contract, or otherwise unpaid general facilities charges and/or special collection charges, are a lien upon the described property as provided in RCW 35.67.220, enforceable in accordance with RCW 35.67.220 through 35.67.280.
2. Upon full payment of the charges due, the city administrator on behalf of the city executes and delivers to the property owner a release of such lien. The property owner is responsible for recording the release at the property owner's expense.

**CHAPTER 13.32**

**SEWAGE SEWER SYSTEM DISCHARGE AND PRETREATMENT**

**Sections:**

**13.32.010 Purpose and policy.**

**13.32.020 Administration.**

**13.32.030 ~~Definitions~~Abbreviations.**

**13.32.040 ~~Abbreviations~~Definitions.**

**13.32.050 Prohibited discharge standards.**

**13.32.060 Federal categorical pretreatment standards.**

**13.32.070 State requirements.**

**13.32.080 Local limits.**

**13.32.090 City's right of revision.**

**13.32.100 Special agreement.**

**Comment [ASB23]:** Previously 13.34, no changes except the chapter title and formatting revisions for abbreviations and definitions.

13.32.110 Dilution.

13.32.120 Pretreatment facilities.

13.32.130 Deadline for compliance with applicable pretreatment requirements.

13.32.140 Additional pretreatment measures.

13.32.150 Accidental spill/slug discharge control plans.

13.32.160 Septage and liquid hauled wastes.

13.32.170 Requirements to complete industrial user surveys.

13.32.175 Education.

13.32.180 Wastewater discharge permitting – Requirements for discharge.

13.32.190 Permit requirements for dangerous waste constituents.

13.32.200 Disclosure of records.

13.32.210 Reports from unpermitted users.

13.32.220 Reporting requirements for dangerous waste constituents.

13.32.225 Notice of potential problems including accidental spills and slug loadings.

13.32.227 Notice of changed discharge.

13.32.230 Record keeping.

13.32.240 Sampling requirements for users.

13.32.250 Analytical requirements.

13.32.260 City monitoring of wastewater.

13.32.270 Right of entry for inspection and sampling.

13.32.280 Monitoring facilities.

13.32.290 Search warrants.

13.32.300 Vandalism.

13.32.310 Confidential information.

13.32.320 State responsibility for administrative actions.

- 13.32.325 Annual publication.**
- 13.32.330 Notification of violation.**
- 13.32.340 Consent orders.**
- 13.32.350 Compliance orders.**
- 13.32.360 Administrative show cause hearing.**
- 13.32.370 Cease and desist orders.**
- 13.32.375 Administrative fines.**
- 13.32.380 Emergency suspension of wastewater services.**
- 13.32.390 Termination of treatment services (nonemergency).**
- 13.32.395 Appeal procedures.**
- 13.32.400 Injunctive relief.**
- 13.32.410 Civil penalties.**
- 13.32.420 Criminal prosecution.**
- 13.32.430 Remedies nonexclusive.**
- 13.32.440 Water supply severance.**
- 13.32.450 Public nuisances.**
- 13.32.460 Performance bonds and liability insurance.**
- 13.32.470 Innovative settlements and supplemental environmental projects.**
- 13.32.480 General prohibited discharge standards.**
- 13.32.490 Upset.**
- 13.32.500 Bypass.**
- 13.32.505 Pretreatment charges and fees.**

**13.32.010 Purpose and policy.**

A. This chapter sets forth uniform requirements for users of the publicly owned treatment works (POTW) operated by the city of North Bend. It enables the city of North Bend to comply with state and federal laws that apply to POTWs with significant industrial users, but without a

discharge permit program. All actions required, or authorities granted under this chapter are in accordance with the Clean Water Act (33 USC 1251 et seq.), the Federal Pretreatment Regulations (40 CFR Part 403), and Chapter 90.48 RCW, Water Pollution Control. The objectives of this chapter are:

1. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
2. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
3. To ensure that the quality of POTW sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
4. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
5. To improve the opportunity to recycle and reclaim wastewater and sludge (biosolids) from the POTW; and
6. To promote strategies which reduce the amounts of pollution generated by users, thereby reducing the associated hazards to the POTW and receiving waters.

B. This chapter shall apply to all users of the POTW. The chapter defines certain prohibited discharges; sets forth local limits for use by state agencies in the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the recovery of liquidated damages and collection of penalties.

#### **13.32.020 Administration.**

Except as otherwise provided herein, the director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the director may be delegated by the director to other city of North Bend personnel.

#### **13.34.040-030 Abbreviations.**

The following abbreviations shall have the designated meanings:

- A. ASPP/SCP – Accidental spill prevention plan/slug control plan requirement;
- B. AKART – All known, available, and reasonable means of prevention, control, and treatment (See NBMC 13.34.030, Definitions);
- C. BOD – Biochemical oxygen demand;
- D. CFR – Code of Federal Regulations;



- E. COD – Chemical oxygen demand;
- F. EPA – U.S. Environmental Protection Agency;
- G. gpd – Gallons per day;
- H. l – Liter;
- I. LEL – Lower explosive limit;
- J. mg – Milligrams;
- K. mg/l – Milligrams per liter;
- L. NPDES – the National Pollutant Discharge Elimination System as defined under Section 402 of the Clean Water Act;
- M. O&M – Operation and maintenance;
- N. POTW – Publicly owned treatment works;
- O. RCRA – Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.);
- P. SIC – Standard industrial classifications;
- Q. SIU – Significant industrial user;
- R. SWDA – Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);
- S. TSS – Total suspended solids;
- T. USC – United States Code.

Note: With regard to abbreviations above, the use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

### **13.32.030-040 Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

#### A. “A” Definitions.

1. “Act” or “the Act” means the Federal Water Pollution Control Act, also known as the Clean Water Act, (33 U.S.C. 1251 et seq.), as amended.
2. “AKART” is an acronym for “all known, available, and reasonable treatment methods (prevention, control, and treatment) to prevent and control pollution of the waters of the State of Washington” (Chapter 90.48 RCW). AKART shall represent the most current

methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. AKART shall be applied by all users of the POTW. AKART includes best management practices and may be required by the director for any discharge to the POTW. "Best management practices" are considered a subset of the AKART requirement.

3. "Applicable pretreatment standards" means, for any specified pollutant, the more stringent of city of North Bend prohibitive standards, city of North Bend specific pretreatment standards (local limits), state of Washington pretreatment standards, or applicable national categorical pretreatment standards.

4. "Authorized representative of the user" means:

a. If the user is a corporation:

ai. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

bii. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

2b. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

3c. If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.

4d. The individuals described in subsections 1 through 3 of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

#### B. "B" Definitions.

1. "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States or waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

2. “Biochemical oxygen demand (BOD)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures during five days at 20 degrees centigrade, usually expressed as a concentration [milligrams per liter (mg/l)].
3. “Bypass” means the intentional diversion of wastestreams from any portion of a user’s treatment facility. “Categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

#### C. “C” Definitions.

1. “Categorical user” means a user covered by one or more categorical standard(s) as defined herein.
2. “City” means the City of North Bend, Washington.
3. “Cooling water” means water used for cooling purposes generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration. For purposes of this chapter, such waters are further divided into two subcategories:
  - a. Uncontaminated: Water to which the only pollutant added is heat, which has no direct contact with any raw material, waste, intermediate, or final product, and which does not contain a level of contaminants detectably higher than that of the intake water.
  - b. Contaminated: Water likely to contain levels of pollutants detectably higher than intake water. This includes water contaminated through any means, including chemicals added for water treatment, corrosion inhibition, or biocides, or by direct contact with any process materials, products, and/or wastewater.
4. “Color” means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.
5. “Composite sample” means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

#### D. “D” Definitions.

1. “Department, the (Ecology)” means the Washington State Department of Ecology or authorized representatives thereof.
2. “Director” means the city of North Bend director of public works, designated by the city to supervise the operation of the POTW, and who is charged with certain duties and

responsibilities by this chapter, and specifically including his/her duly authorized representative or inspector.

3. “Domestic user” means any person who contributes, causes, or allows the discharge of wastewater into the city of North Bend POTW that is similar in volume and/or chemical make-up to domestic wastewater. For comparison, the director may assume discharges of domestic wastewater from dwelling units to be 100 gallons containing 0.2 pounds of BOD, and 0.2 pounds of TSS per capita per day, or as identified in the design of the POTW.
4. “Domestic wastewater” means wastewater from residential kitchens, bathrooms, and laundries, and waterborne human wastes from sanitary facilities in all other buildings, together with such groundwater infiltration or surface waters as may be present.

#### E. “E” Definitions.

1. “Environmental Protection Agency (EPA)” means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
2. “Existing source” means any categorical user which discharges wastewater to the POTW, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
3. “Existing user” means any industrial user not subject to categorical pretreatment standards which discharges wastewater to the POTW prior to the effective date of the ordinance codified in this chapter.

#### F. “F” Definitions.

1. Fats, Oils and Grease (FOG). The term “fats, oils, and grease” shall mean those components of wastewater amenable to measurement by the methods described in Standard Methods for the Examination of Water and Wastewater, 19th Edition, 1995. The term “fats, oils and grease” shall include polar and nonpolar fats, oils and grease and other components extracted from wastewater by these methods.

#### G. “G” Definitions.

2. “Grab sample” means a sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.
3. “Grease interceptor” means an interceptor of at least 750 gallon capacity to serve one or more fixtures and which shall be remotely located pursuant to the Uniform Plumbing Code adopted pursuant to Chapter 15.20 NBMC.

4. “Grease trap” means a device designed to retain grease from one to a maximum of four fixtures pursuant to the Uniform Plumbing Code adopted pursuant to Chapter 15.20 NBMC.

[H. Reserved.](#)

[I. “I” Definitions.](#)

1. “Indirect discharge” or “discharge” means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.
2. “Industrial wastewater” means water or liquid-carried waste from any industry, manufacturing operation, trade, or business which includes any combination of process wastewater, cooling water, contaminated stormwater, contaminated leachates, or other waters such that the combined effluent differs in some way from purely domestic wastewater, and/or is subject to regulation under federal categorical pretreatment standards, the state waste discharge permit program, or this chapter.
3. “Interference” means the effect of a discharge or discharges on the POTW from one or more users which results in either: (1) inhibition or disruption of the POTW, its treatment processes or operations, or its sludge processes, use or disposal; (2) violation of any permit regulating the city of North Bend wastewater discharge or sewage sludge; or (3) prevention of sewage sludge use or disposal in compliance with any applicable statutory or regulatory provision or permit issued thereunder. (Applicable sludge regulations shall include Section 405 of the Clean Water Act (33 USC 1345 et seq.); the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.); state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act (42 USC 7401 et seq.); the Toxic Substances Control Act (TSCA) (15 USC 2601 et seq.); the Marine Protection, Research, and Sanctuaries Act (33 USC et seq.); and 40 CFR part 503.)

[J. Reserved.](#)

[K. Reserved.](#)

[L. Reserved](#)

[M. “M” Definitions.](#)

1. “Maximum allowable discharge limit” means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

2. “Medical wastes” means isolation wastes, infectious agents, human blood and blood products or byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
3. “Minor industrial user” means an industrial user of the POTW identified by the city that discharges a waste stream which, when taken with the waste stream from other minor industrial users, may have a significant impact on the POTW. MIUs without process discharge waste streams that have potential for accidental spills to the sewer may be subject to ASPP/SCP requirements.

N. “N” Definitions.

1. “New source” means:

a1. -Any facility constructed after proposed categorical standards applicable to operations conducted at the facility were published, provided the facility is or may be a source of discharge to the POTW, and:

ia. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

iib. The new construction totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

iiie. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site.

b2. -Construction of a new source as defined under this definition has commenced if the owner or operator has either: (a) begun, or caused to begin any placement, assembly, or installation of facilities or equipment; (b) begun, or caused to begin significant site preparation work including removal of existing facilities necessary for the emplacement of new source facilities or equipment; or (c) entered into a binding contractual obligation for the purchase of facilities or equipment for use in operation of a new source within a reasonable time.

2. “New user” means any noncategorical user that plans to discharge a new source of wastewater to the city of North Bend collection system after the effective date of the ordinance codified in this chapter. This discharge may be from either a new or an existing facility. Any person that buys an existing facility discharging nondomestic wastewater will be considered an “existing user” if no significant changes in facility operation are made and wastewater characteristics are not expected to change.

O. Reserved.

P. “P” Definitions.

1. “Pass through” means a discharge which exits the POTW into waters of the United States or waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, either: (1) cause a violation of any requirement of a city of North Bend NPDES or other required state or federal permit; (2) cause an increase in the magnitude or duration of a violation; or, (3) cause a violation of any water quality standard for waters of the state promulgated under state regulations including Chapter 173-201A WAC.
2. “Permittee” means any person or user issued a wastewater discharge permit.
3. “Person” means any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, any federal, state, or local governmental agency or entity, or any other entity whatsoever; or their legal representatives, agents, or assigns.
4. “pH” means a measure of the acidity or alkalinity of a substance, expressed in standard units. (Technically defined as the logarithm of the reciprocal of the mass of hydrogen ions in grams per liter of solution).
5. “Pollutant” means any substance, either liquid, gaseous, solid, or radioactive, discharged to the POTW which, if discharged directly, would alter the chemical, physical, thermal, biological, or radiological properties of waters of the state of Washington including pH, temperature, taste, color, turbidity, oxygen demand, toxicity, or odor. This includes any discharge likely to create a nuisance or render such waters harmful, detrimental or injurious to any beneficial uses, terrestrial or aquatic life, or to public health, safety or welfare.
6. “Pollution prevention” means source reduction; protection of natural resources by conservation; or increased efficiency in the use of raw materials, energy, water or other resources.
7. “Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).
8. “Pretreatment requirements” means any substantive or procedural local, state, or federal requirement related to pretreatment developed under Chapter 90.48 RCW and/or Sections 307 and 402 of the Clean Water Act.
9. “Pretreatment standards” or “standards” mean any pollutant discharge limitations including categorical standards, state standards, and limits in NBMC 13.34.080 applicable to the discharge of nondomestic wastes to the POTW. The term shall also include the prohibited discharge standards of this chapter, WAC 173-216-060, and 40 CFR Part 403.5.

10. “Prohibited discharge standards” or “prohibited discharges” mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in NBMC 13.34.050.
11. “Publicly owned treatment works (POTW)” means a “treatment works,” as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the city of North Bend. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastewater and any conveyances which convey wastes to a wastewater treatment plant. The term shall also mean the city of North Bend.

Q. Reserved.

R. Reserved.

S. “S” Definitions.

1. “Septage” means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system. This includes liquids and solids from domestic holding tanks, chemical toilets, campers, and trailers, when these systems are cleaned or maintained.
2. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
3. “Sewage” or “wastewater” mean water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm, or other waters as may be present.
4. “Sewer” means any pipe, conduit ditch, or other device used to collect and transport sewage.
5. “Shall” defines a mandatory requirement.
6. “Significant industrial user” means:
  - a. ~~1-~~A user subject to categorical pretreatment standards; or
  - b. ~~2-~~A user that:
    - i. ~~a-~~Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or



- ii. ~~b.~~Contributes a process waste-stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - iii. ~~e.~~Is designated as such by the director on the basis that it has a reasonable potential, either singly or in combination with other contributing users, for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
  - c. ~~3.~~Upon a finding that a user meeting the criteria in subsection 2 of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, the department may at any time, on its own initiative or in response to a petition received from a user or the city of North Bend and in accordance with procedures in 40 CFR 403.8(f)(6) determine that such user should not be considered a significant industrial user.
7. "Significant noncompliance (SNC)" shall refer to a violation or pattern of violation of one of the following natures:
- a. ~~1.~~"Chronic violations of wastewater discharge limits," defined here as those in which 66 percent or more of all wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
  - b. ~~2.~~"Technical review criteria (TRC) violations," defined here as those in which 33 percent or more of all wastewater measurements taken for each pollutant parameter during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC [1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH];
  - c. ~~3.~~Any other discharge violation that the city of North Bend believes has caused, alone or in combination with other discharges, interference or pass through;
  - d. ~~4.~~Any discharge of pollutants that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in the city of North Bend's exercise of its emergency authority to halt or prevent such a discharge;
  - e. ~~5.~~Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
  - f. ~~6.~~Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - g. ~~7.~~Failure to accurately report noncompliance; or

- h. ~~8.~~ Any other violation(s) which the director determines will adversely affect the operation or implementation of the local pretreatment program.
8. “Sludge” means any solid, semi-solid or liquid residue generated by the weight processes of a domestic treatment works or the wastewater treatment plant. Sludge includes, but is not limited to, domestic septage, scum or solids removed in primary, secondary or advanced wastewater treatment processes; and any material derived from sewage sludge. Sludge does not include ash generated during the firing of sludge in a sludge incinerator or grit in screenings generated during preliminary treatment of domestic sewage in a treatment works. For the purposes of this chapter, scum which is not combined with the solids removed in primary, secondary or advanced wastewater treatment process is not considered to be sludge.
9. “Slug load” means any pollutant released in a discharge at a flow rate or concentration which could violate this chapter, or any discharge of a nonroutine, episodic nature such as an accidental spill or a noncustomary batch discharge.
10. “Standard Industrial Classification (SIC) Code” means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
11. “State” means the state of Washington.
12. “Stormwater” means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

T. “T” Definitions.

1. “Total suspended solids” means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering.
2. “Toxic pollutant” means one or a combination of the pollutants listed as toxic in regulations promulgated by the EPA under Section 307 (33 U.S.C. 1317) of the Act.
3. “Treatment plant effluent” means the discharge from the city of North Bend POTW.

U. “U” Definitions.

1. “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. “User” or “industrial user” means any nondomestic source of wastewater discharged to the POTW. This excludes “domestic users” as defined herein.

[V. Reserved.](#)

[W. “W” Definitions.](#)

1. Wastewater. See Sewage.
2. “Wastewater discharge permit (industrial wastewater discharge permit, discharge permit)” means an authorization or equivalent control document issued by the department to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this chapter.
3. “Wastewater treatment plant” or “treatment plant” means that portion of the POTW designed to provide treatment of sewage as defined herein.

[X. Reserved.](#)

[Y. Reserved.](#)

[Z. Reserved.](#)

#### **13.32.050 Prohibited discharge standards.**

A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. (40 CFR 403.5(a) and WAC 173-216-060(2)(b)(i)).

B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants in any form (solid, liquid, or gaseous):

- 1 Any pollutant which either alone or by interaction may create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21, (40 CFR 403.5(b)(1)), or are capable of creating a public nuisance. (WAC 173-216-060(2)(b)(ii));
2. Wastewater containing heavy metals, including but not limited to copper, zinc, mercury, and silver, at concentrations or in total amounts which alone or in conjunction with other sources, will cause the POTW to violate its NPDES permit;
3. Any pollutant which will cause corrosive structural damage to the POTW, but in no case discharges with a pH less than 5.5 or more than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the POTW, unless the system is specifically designed to accommodate such discharge and the discharge is authorized by an applicable wastewater discharge permit. (40 CFR 403.5(b)(2) and WAC 173-216-060(2)(b)(iv));

4. Any solid or viscous substances including fats, oils, and greases in amounts which may cause obstruction to the flow to or in a POTW or other interference with the operation of the POTW (40 CFR 403.5(b)(3) and WAC 173-216-060(2)(b)(iii)). Any fat, oil or grease substance in excess of 100 ppm shall be presumed to cause obstruction;
5. Any discharge of pollutants, including oxygen-demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, is sufficient to cause interference with the POTW. (40 CFR 403.5(b)(4) and WAC 173-216-060(2)(b)(vi));
6. Any waste stream having a temperature which will inhibit biological activity in the treatment plant resulting in interference, or causing worker health or safety problems in the collection system. In no case shall wastewater be discharged at a temperature which causes the temperature of the influent to the treatment plant to exceed 104 degrees F (40 degrees C) unless the system is specifically designed to accommodate such a discharge, and the discharge is authorized by an applicable wastewater discharge permit. (40 CFR 403.5(b)(5) and WAC 173-216-060(2)(b)(v));
7. Any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through. (40 CFR 403.5(b)(6) and WAC 173-216-060(2)(b)(i));
8. Any pollutants which result in the presence of toxic gases, vapors, or fumes within any portion of the POTW in a quantity that may cause worker health and safety problems. (40 CFR 403.5(b)(7)) and WAC 173-216-060(b)(ii));
9. Any trucked or hauled wastes unless authorized by the director and at discharge points designated by the city of North Bend and in compliance with all applicable city of North Bend requirements and during specified hours. (40 CFR 403.5(b)(8));
10. Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair. (WAC 173-216-060(2)(b)(ii));
11. Any of the following discharges unless approved by the department under extraordinary circumstances such as the lack of direct discharge alternatives due to combined sewer service or need to augment sewage flows due to septic conditions. (WAC 173-216-060(2)(b)(vii)):
  - a. Noncontact cooling water in significant volumes;
  - b. Stormwater, and other direct inflow sources; or
  - c. Wastewaters significantly affecting system hydraulic loading, which do not require treatment or would not be afforded a significant degree of treatment by the POTW;

12. Any dangerous or hazardous wastes as defined in Chapter 173-303 WAC, as amended, except as allowed in compliance with that regulation. (WAC 173-216-060(1) and 40 CFR Part 261);
13. Any substance which will cause the POTW to violate its NPDES, state waste discharge or other disposal system permits or causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
14. Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or would interfere with the reclamation process or cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed pursuant to the federal, state, or local statutes or regulations applicable to the sludge management method being used;
15. Any discharge which causes the transmittance of the POTW final effluent to fall below 60 percent at 254 nanometers;
16. Any discharge containing radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable state or federal regulations including WAC 246-221-190, Disposal by Release into Sanitary Sewage Systems; and meeting the concentration limits of WAC 246-221-290 Appendix A, Table I, Column 2; and WAC 246-221-300 Appendix B;
17. Any sludges, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;
18. Any medical wastes, except as specifically authorized by the director;
19. Any detergents, surface-active agents, or other substances in amounts which may cause excessive foaming or other interference in the POTW;
20. Any incompatible substance including but not limited to: grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, whole milk, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;
21. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA);
22. Any wastewater, which in the opinion of the director can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under a legal and binding agreement by the director (except that no waiver may be given to any categorical pretreatment standard).

C. Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

**13.32.060 Federal categorical pretreatment standards.**

National Categorical Pretreatment Standards as adopted and hereafter amended by the EPA pursuant to the Act shall be met by all users in the regulated industrial categories. These standards, found in 40 CFR Chapter I, Subchapter N, Parts 405-471, are hereby incorporated by reference.

**13.32.070 State requirements.**

A. State requirements and limitations on discharges to the POTW as incorporated into Washington State Law by Chapter 90.48 RCW and implemented in Chapters 173-201A, 173-216, and 173-240 WAC, shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this or other applicable ordinances. This includes the requirement to meet AKART as defined herein whenever applicable and more stringent than the limits of NBMC 13.32.080, and to comply with the requirements of NBMC 13.32.180.

B. Any user determined by the city of North Bend to qualify as a significant industrial user shall file an application for a state waste discharge permit with the department in accordance with the requirements of WAC 173-216-070. Proof of acceptance of the application, and payment of permit fees shall be kept at the user's facilities, and produced upon request by the city of North Bend. Failure to submit the application or rejection of the application by the department may be considered sufficient grounds to terminate or refuse to provide sewer service.

**13.32.080 Local limits.**

A. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum allowable discharge limits.

Metal	mg/l
Silver	0.0010
Copper	0.0095
Mercury	0.0004
Zinc	0.0678

B. The above limits apply to the end of any process or combination of processes identified to have a potential discharge of this pollutant. All concentrations for metallic substances are for “total” metal unless indicated otherwise. The city may impose mass limitations in addition to or in place of the concentration-based limitations above. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

#### **13.32.090 City’s right of revision.**

The city of North Bend reserves the right to establish more stringent standards or requirements on discharges to the POTW.

#### **13.32.100 Special agreement.**

A. The city may enter into agreements with users to accept pollutants compatible with the treatment system at concentrations greater than those typical of domestic wastewater. Within such agreements, the city of North Bend may establish terms of the user’s discharge to the POTW including maximum flow rates, and concentrations. The city of North Bend may also establish fees to recover costs associated with treating such wastes and monitoring schedules in such agreements. In no case will a special agreement waive compliance with a state or federal pretreatment standard or requirement including categorical standards.

B. Users discharging or intending to discharge pollutants other than BOD and TSS, and claiming compatibility, must prove to the satisfaction of the director, that such pollutants are compatible with the POTW. The director may require any claim of compatibility to be endorsed by the department.

C. The city may assist, by arrangement or formal agreement, any agencies that regulate hazardous wastes and materials, and air emissions from users in order to maximize state, county, and city resources.

D. The city may specifically arrange to act as an agent of the department to determine compliance with treatment or disposal requirements and inspect on-site disposal activities and shipping documents.

E. The city may facilitate compliance by arranging or providing pollution prevention technical assistance for users, especially those in violation of pretreatment standards. The director intends to provide such assistance in coordination and cooperation with the appropriate local, county, and state authority(ies).

#### **13.32.110 Dilution.**

No user shall ever increase the use of water, nor combine separate waste streams, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The director may request the department impose mass limitations on users which he/she believes may be using dilution to meet applicable

pretreatment standards or requirements, or in any other case when the imposition of mass limitations is appropriate.

#### **13.32.120 Pretreatment facilities.**

A. Users shall procure and properly install, operate, and maintain the pretreatment facilities which combined with appropriate best management practices are necessary to achieve AKART as defined herein. Such pretreatment facilities shall be designed to achieve compliance with all applicable pretreatment standards and requirements within the time limitations specified by the EPA or the state, whichever is more stringent. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the department for review and approval in accordance with the procedures of Chapter 173-240 WAC, and shall be disclosed to the city of North Bend before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying its facility as necessary to produce a discharge acceptable to the city of North Bend and/or the department and meet discharge limitations under the provisions of this chapter. Such facilities shall be provided, operated, and maintained at the user's expense.

B. Users shall comply with approved engineering reports, plans and specifications, and operations and maintenance manuals, and shall modify such documents to reflect any proposed modifications of industrial wastewater (pretreatment) facilities. Users shall submit proposals to modify pretreatment facilities to the department before implementation in accordance with Chapter 173-240 WAC. Users shall submit a copy of such revised plans and the department's acceptance to the director before implementing changes to approved pretreatment facilities. The director may audit the compliance of any user, and require changes in operating procedures deemed necessary by the director to ensure continued compliance with applicable pretreatment standards and requirements.

#### **13.32.130 Deadline for compliance with applicable pretreatment requirements.**

A. Existing sources (as defined herein) to which one or more categorical pretreatment standard is applicable, shall comply with all applicable standards within three years of the date the standard is effective unless the pretreatment standard includes a more stringent compliance schedule. The department shall establish a final compliance deadline date for any existing user (as defined herein) or any categorical user when the local limits for said user are more restrictive than EPA's categorical pretreatment standards.

B. New sources and new users as defined herein shall comply with applicable pretreatment standards within the shortest feasible time. In no case shall such time exceed 90 days from beginning a discharge. Prior to commencing discharge, such users shall have all pollution control equipment required to meet applicable pretreatment standards installed and in proper operation.

#### **13.32.140 Additional pretreatment measures.**

A. Whenever deemed necessary, the director may require users to comply with such conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter. Such measures may include: restricting a discharge during peak flow periods; designating that certain wastewater be discharged only into specific sewers;



requiring relocation and/or consolidation of discharge points; and/or separating sewage waste streams from industrial waste streams.

B. Grease, oil, and sand interceptors or traps shall be required when, in the opinion of the director, they are necessary for the proper handling of wastewater containing grease and oil in excess of the limits in NBMC 13.32.080, or excessive amounts of sand or other settle-able solids. Such interceptors shall not be required for domestic users. All interceptors shall be of type and capacity approved by the director and shall be located to be easily accessible for cleaning and inspection. Each user shall maintain, inspect, and clean required interceptors or traps on a schedule that ensures they capture the intended pollutants, and prevents their reintroduction into the storm or sanitary sewer systems. Users shall bear all expenses related to installation, maintenance, and repair of interceptors, and the proper disposal of removed materials.

C. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

D. The director may require a user discharging more than 10,000 gallons per day or 10 percent of the average daily flow in the POTW, whichever is less, to install and maintain, on its property and at its expense, a suitable storage and flow-control facility to ensure equalization of flow over a 24-hour period. The facility shall have a capacity for at least 50 percent of the daily wastewater discharge volume and shall be equipped with alarms and a rate of discharge controller. The director shall direct the control of discharges. The city may require the user to obtain a wastewater discharge permit solely for flow equalization, or to develop a slug discharge control plan (See NBMC 13.32.150).

#### **13.32.150 Accidental spill/slug discharge control plans.**

A. The director may require any user to install, properly operate, and maintain, at its own expense, facilities to prevent slugloads or accidental discharges of pollutants to the POTW. The director may require users to produce and/or implement spill plans developed in compliance with applicable OSHA, health, fire, and department regulations applicable to discharges to POTWs. When such plans are required by the director they shall contain at least the following elements:

1. A description of all wastewater discharge practices, including non-routine batch discharges;
2. A description of any and all stored chemicals;
3. Procedures for immediately notifying the director of any accidental or slugload discharges, with procedures for follow-up written notification within five days; and
4. Procedures to prevent adverse impact from any accidental or slugload discharge, including but not limited to, the following: inspection and maintenance of chemical storage areas, handling and transfer of materials; loading and unloading operations; control of runoff, worker training; construction of containment structures or equipment; and measures for emergency response.

B. Users shall verbally notify the director immediately upon the occurrence of a slugload or accidental discharge of substances regulated by this chapter and take immediate actions to correct the situation. Such notification shall include the following information: (1) the location of discharge, (2) the date and time thereof, (3) the type of waste, (4) the waste concentration and volume, and (5) the corrective actions taken and planned. The user shall follow-up with a written notification to the director containing the same information within seven days following the discharge.

C. Any user who discharges an accidental discharge or slugload shall be liable for: (1) recovery of any resultant expenses, losses, and damages to the POTW; (2) recovery of any fines or settlements levied upon the city by any government agency or court of competent jurisdiction attributable to the discharge; and (3) applicable fines and penalties assessed upon the user by the city of North Bend for noncompliance with this chapter.

#### **13.32.160 Septage and liquid hauled wastes.**

A. Residential/domestic septic tank waste may be introduced into the POTW only at a designated receiving structure within the treatment plant area, or at a site authorized by the director and at such times as are established by the director. Such wastes shall not violate this chapter or any other requirements established or adopted by the city, except as authorized by the director.

B. Permits for individual vehicles to use such facilities shall be issued by the city. Wastewater discharge permits may be issued to each septage hauling business, and may encompass more than one vehicle.

C. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable pretreatment standards. The director may require the hauler to provide a waste analysis of any load prior to discharge.

D. Septage haulers shall utilize a waste tracking form (manifest) provided by the director for every load discharged. Any discharge without a manifest form is an unauthorized discharge and the hauler will receive an administrative fine of not less than \$5,000, and may have their discharge permit revoked or suspended.

E. Wastewater discharge permit fees for liquid waste haulers shall be established and charged in addition to any license and volume fees charged. License and volume fees shall be established as part of the user fee system utilizing the principles established above.

#### **13.32.170 Requirements to complete industrial user surveys.**

The director shall periodically notify new, existing, and potential users of the requirement to complete a user survey form. Upon notification, users shall fully and accurately complete the survey form, and return the completed form to the director within 30 days of receipt. Each user shall maintain a copy of the latest completed survey form at their place of business. Failure to fully or accurately complete a survey form, or to maintain the latest survey form on the premises where a wastewater discharge is occurring shall be a violation of this chapter.

### **13.32.175 Education.**

The city shall undertake to educate all users of the general requirements of this chapter, including permitting requirements, discharge prohibitions, potential penalties, and fees. The city shall also endeavor to promote appropriate waste reduction strategies for all users through educational materials.

### **13.32.180 Wastewater discharge permitting – Requirements for discharge.**

A. No significant industrial user (SIU) shall discharge wastewater into the POTW without first obtaining a statement from the director that the POTW has the hydraulic, and/or loading capacity to accept the discharge. Each SIU must also comply with the state requirements listed in NBMC 13.32.070, and in particular, apply for and receive a wastewater discharge permit from the department which authorizes the discharge. The director may require proof of application as a condition of new or continued discharge. Obtaining a wastewater discharge permit does not relieve an SIU of his/her obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local regulation including the requirement for applying AKART.

B. The director may require other users, including liquid waste haulers, to apply for, and obtain, applicable wastewater discharge permits as necessary to carry out the purposes of this chapter.

C. The director may also establish, and require users, by letter, permit, or rule, to implement those best management practices determined by the director to be representative of AKART, or to discontinue use of any substance for which an effective substitute is available which will either: (1) lessen the potential for violating this chapter or any water quality standard, or (2) may represent a significant decrease either singly, or in combination with other similar users, in the toxicity of pollutant loadings to the POTW.

D. The city may require any user, or category of users, to complete pollution prevention planning and to submit the completed plan to the city for approval. The city may require users who must submit a pollution prevention plan under the state's Hazardous Waste Reduction Act to provide this plan to the director as a condition of initial or continued discharge.

E. Whenever a moratorium has been imposed upon the POTW preventing the additional of new users, the director may require any or all users of the POTW to develop plans to reduce their discharges through water reuse, recycling, reclamation or other applicable management practices, and to implement such plans or other measures deemed appropriate by the director to preserve the availability of public sewage treatment services.

### **13.32.190 Permit requirements for dangerous waste constituents.**

~~A.~~ Users discharging a waste stream containing dangerous wastes as defined in Chapter 173-303 WAC (listed, characteristic, or criteria wastes) are required to comply with the following permit provisions:

~~1A.~~ Obtain a written authorization to discharge the waste from the director, and either obtain specific authorization to discharge the waste in a state waste discharge permit issued by

the department, or accurately describe the waste stream in a temporary permit obtained pursuant to RCW 90.48.165. The description shall include at least:

a1. The name of the dangerous waste as set forth in Chapter 173-303 WAC, and the dangerous waste number;

b2. The mass of each constituent expected to be discharged;

e3. The type of discharge (continuous, batch, or other).

2B. Compliance shall be obtained on the following schedule:

a1. Before discharge for new users;

b2. Within 30 days after becoming aware of a discharge of dangerous wastes to the POTW for existing users; and

e3. Within 90 days after final rules identifying additional dangerous wastes or new characteristics or criteria of dangerous waste are published for users discharging a newly listed dangerous waste.

#### **13.32.200 Disclosure of records.**

Each user shall have available at the location of discharge, all records and reports required by this chapter, by any applicable state and federal regulation, and by any permit or order issued thereunder. Each user shall make such records available for review by the director during business hours, when activities are being conducted at the facility, and at all reasonable times. Failure to comply with this provision is a violation of this chapter.

#### **13.32.210 Reports from unpermitted users.**

All users not obligated to obtain a wastewater discharge permit from the department shall provide appropriate reports to the city of North Bend as the director may require. The director shall determine the schedule and format of such reports, and the pollutant properties, flow rates, and other pertinent information to be reported.

#### **13.32.220 Reporting requirements for dangerous waste constituents.**

Any user that is discharging seven kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one time notification in writing to the city, EPA Regional Waste Management Division Director, and the Hazardous Waste Division of the NWRO of the Washington State Department of Ecology. Any existing user exempt from this notification shall comply with the requirements contained herein within 30 days of becoming aware of a discharge of seven kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the city sewer system.

Such notification shall include:

- A. The name of the hazardous waste as set forth in 40 CFR Part 261;
- B. The EPA hazardous waste number; and
- C. The type of discharge (continuous, batch, or other);
- D. If an industrial user discharges more than 50 kilograms of such waste per calendar month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:
  - 1. An identification of the hazardous constituents contained in the wastes,
  - 2. An estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month, and
  - 3. An estimation of the mass of constituents in the wastestreams expected to be discharged during the following 12 months.

These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the city of the discharge of such a substance within 90 days of the effective date of such regulations.

In the case of any notification made under this paragraph, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. Discharging hazardous waste to the sewer system is prohibited as per NBMC 13.32.050.

#### **13.32.225 Notice of potential problems including accidental spills and slug loadings.**

Any user shall notify the city immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in NBMC 13.32.030. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a “slug” (or slugs) of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed by the city or on the city under state or federal law.

#### **13.32.227 Notice of changed discharge.**

Any user shall notify the city at least 60 days in advance of any substantial change in the volume or character of pollutants in its discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12(p).

### **13.32.230 Record keeping.**

A. Users subject to this chapter shall retain, and make readily available for inspection and copying, all records of information maintained to comply with this chapter, a state waste discharge permit, or approved operations and maintenance procedures (inspections, lubrication, repair, etc.). Users subject to monitoring requirements shall keep accurate and complete records of all monitoring activities whether required or voluntary.

B. Monitoring records shall include: the date, exact place, method, and time of sampling; the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

C. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the director has specifically notified the user that a longer retention period is required.

### **13.32.240 Sampling requirements for users.**

A. Applicable Requirements. Users which discharge to the POTW shall abide by all applicable wastewater monitoring requirements of this chapter, any applicable order, and any state or federal regulation or permit, including a state waste discharge or NPDES permit. The director may require any user to engage in self-monitoring as a requirement of discharge to the POTW, or may conduct city of North Bend monitoring of any discharge to the POTW.

B. Categorical User Sampling Requirements. Categorical users with combined discharges shall measure flows and pollutant concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e). Where feasible, such users shall sample immediately downstream from any pretreatment facilities, unless the department determines end-of-pipe monitoring to be more stringent or applicable.

C. Non-categorical Users. All other users where required to sample, shall measure the flows and pollutant concentrations necessary to evaluate compliance with pretreatment standards and requirements.

D. Data Required. Users which analyze wastewater samples shall record and report with the sampling results, the information required by NBMC 13.32.230(B). All required reports shall also certify that the samples are representative of normal work cycles and wastewater discharges from the user. Whenever a user analyzes wastewater samples for any regulated pollutant more frequently than required, using methodologies in 40 CFR Part 136, the results of such analyses shall be submitted with the next required wastewater discharge report. Reports containing incomplete information shall not demonstrate compliance with this chapter, or a wastewater discharge permit.

E. Noncompliance Reporting. If sampling performed by a user indicates a violation of its wastewater discharge permit or this chapter, the user shall notify the city within 24 hours of becoming aware of the violation.

### **13.32.250 Analytical requirements.**

Users shall ensure that all wastewater analyses required to be reported with the exception of flow, temperature, settle-able solids, conductivity, and pH shall be performed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC. Sampling and analysis techniques used in collection, preservation, and analysis, shall be in accordance with 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. Where 40 CFR Part 136 does not contain applicable sampling or analytical techniques for the pollutant in question, sampling and analyses shall be performed in accordance with procedures approved by the EPA or the department.

### **13.32.260 City monitoring of wastewater.**

The city shall follow the procedures required of users described in NBMC 13.32.240 and 13.32.250 whenever conducting wastewater sampling of any industrial user when such sampling is conducted to ensure compliance with this chapter and applicable pretreatment standards and requirements.

### **13.32.270 Right of entry for inspection and sampling.**

A. The director shall have the right to enter the facilities of any user to ascertain whether the purpose of this chapter, and any wastewater discharge permit or order issued under this chapter or by the department, is being met and whether the user is complying with all requirements thereof.

B. The director shall have the right to set up on any user's property such devices as are necessary to conduct sampling, compliance monitoring, and/or metering of a user's operations. It shall be the policy of the director to inform the department of such activities where users hold a state waste discharge permit in order to make the results of such sampling available to the department.

C. Users shall allow the director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

D. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director, his or her agents or assigns, and representatives of state and federal authority will be allowed to enter without delay for the purposes of performing their respective duties.

E. Any temporary or permanent obstruction to safe, ready, and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be borne by the user.

F. Unreasonable delays or failure to allow the director access to any area to perform functions authorized under this chapter shall be grounds for termination of wastewater treatment services, and enforcement as authorized by this chapter.

### **13.32.280 Monitoring facilities.**

A. Any user notified by the department or the city of North Bend that monitoring facilities are required shall provide and operate at its own expense a monitoring facility to allow proper inspection, sampling, and flow measurements of each sewer discharge to the POTW. Monitoring facilities shall be situated on the user's premises.

B. When the director or the department determines it is appropriate, they may require a user to construct and maintain monitoring facilities at other locations (for example, at the end of a manufacturing line, or wastewater treatment system).

C. There shall be ample room in or near such monitoring facilities to allow accurate sampling and preparation of samples for analysis. The user shall maintain the facility, sampling, and measuring equipment at all times in a safe and proper operating condition at his/her own expense.

D. All wastewater monitoring facilities shall be constructed and maintained in accordance with all applicable construction standards and specifications. All devices used to measure wastewater flow and quality shall be regularly calibrated, but no less frequently than annually, to ensure their accuracy. Calibration records shall be available for inspection of the director.

### **13.32.290 Search warrants.**

A. If the director or authorized inspector acting as his/her agent has been refused access to a building, structure or property, or any part thereof, then the director shall seek issuance of a search and/or seizure warrant from the King County superior court when:

1. There is probable cause to believe that there may be a violation of this chapter; or
2. There is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this chapter, an order issued hereunder, or any wastewater discharge permit; or
3. To protect the overall public health, safety and welfare of the community.

Such warrant shall be served at reasonable hours by the director in the company of a uniformed police officer of the city.

B. In the event the director has reason to believe a situation represents an imminent threat to public health and safety, and where entry has been denied or the area is inaccessible, the director may enter in the company of a uniformed police officer, before a requested warrant has been produced, in order to determine if the suspected situation exists, and if so, to take such actions necessary to protect the public.

### **13.32.300 Vandalism.**

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any



person found in violation of this requirement shall be subject to the sanctions set out in this chapter.

**13.32.310 Confidential information.**

A. Records kept by the city of North Bend with respect to the nature and frequency of discharges from any user shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city of North Bend, that the release of such information would divulge information, processes or methods of production entitled to confidentiality under the law.

B. Users shall clearly mark “confidential” on all areas of correspondence they wish to be held confidential from the public, and feel is afforded such protection. The city of North Bend shall determine if such information is legally afforded this protection under the law upon receipt of a request for such information. Only information marked “confidential” and determined by the city to legally qualify as such shall be withheld from the public.

C. No correspondence claimed as “confidential” shall be withheld from any state or federal agency responsible for oversight of the city’s NPDES permit or authority to implement the NPDES, or state or federal pretreatment programs. Wastewater constituents and characteristics, and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

**13.32.320 State responsibility for administrative actions.**

The department is charged with permitting and regulating SIUs discharging to the city POTW. Except for emergency actions, it shall be the policy of the director to coordinate actions in regard to control of such users with the department until such time as a local pretreatment program for the city may be authorized by the state. Failure to conduct such coordination, however, shall not invalidate any action of the city authorized by this chapter.

**13.32.325 Annual publication.**

The city shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users who, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements.

**13.32.330 Notification of violation.**

A. Whenever the director finds that any user has violated or is continuing to violate any provision of this chapter, or an order issued hereunder, the director may serve upon such user written notice of the violation.

B. Within 10 days of receipt of such notice of violation, the user shall submit to the director an explanation of the violation and a plan to satisfactorily correct and prevent the reoccurrence of such violation(s). The plan shall include specific actions the user will take, including: (1) increased monitoring, the results of which shall be reported to the city, and (2) specific BMPs or treatment measures to be implemented, and the implementation dates of each. All corrective

actions must be completed as quickly as is practicable. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

C. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

**13.32.340 Consent orders.**

A. The director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such consent orders shall include specific action to be taken by the user to correct the noncompliance within a time schedule also specified by the consent order.

B. Compliance schedules, when included in consent orders, may not extend the compliance date beyond any applicable state or federal deadlines. Consent orders shall have the same force and effect as compliance orders issued pursuant to this chapter, and shall be judicially enforceable.

C. Failure to comply with any terms or requirements of a consent order by the user shall be an additional and independent basis for termination of wastewater services, including collection and treatment, or for any other enforcement action authorized under this chapter and deemed appropriate by the director.

**13.32.350 Compliance orders.**

A. Whenever the director finds that a user has violated, or continues to violate, any provision of this chapter, or order issued hereunder, the director may issue a compliance order to the user responsible for the violation. This order shall direct that adequate pretreatment facilities, devices, or other related appurtenances be installed and properly operated and maintained. The order shall specify that wastewater services, including collection and treatment, shall be discontinued and/or applicable penalties imposed unless, following a specified time period, the directed actions are taken.

B. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the violation or noncompliance, including, but not limited to, the installation of pretreatment technology, additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance beyond any applicable state or federal deadlines, nor does a compliance order release the user from liability from any past, present, or continuing violation(s). Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

C. Failure to comply with any terms or requirements of a compliance order by a user shall be an additional and independent basis for termination of wastewater services, including collection and treatment, or any other enforcement action authorized under this chapter and deemed appropriate by the director.

#### **13.32.360 Administrative show cause hearing.**

A. A user shall be afforded the opportunity to an administrative hearing to contest the city's determination to suspend services, impose penalties, recover costs, or establish compliance schedules. A user shall also have the right to a hearing prior to termination of a user's wastewater collection and treatment services.

B. Notice shall be served on the user specifying the time and place for the administrative hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served on an authorized representative of the user (return receipt requested) at least 15 days prior to the scheduled hearing date.

C. An administrative hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

#### **13.32.370 Cease and desist orders.**

A. The director may issue a cease and desist order upon finding a user has or is violating either: this chapter, a wastewater discharge permit or order issued by the department, any other pretreatment standard or requirement. The decision to issue a cease and desist order shall consider the likelihood that a user's violations in conjunction with other discharges could cause a threat to the POTW, POTW workers, or the public, or cause pass through, interference, or a violation of the POTW's NPDES permit. The order issued by the director will direct the user to cease and desist all such violations and to:

1. Immediately cease such actions or discharges as described;
2. Comply with all applicable pretreatment standards and requirements;
3. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

B. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

#### **13.32.375 Administrative fines.**

A. When the director finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user in an amount not less than \$250.00 and not to exceed \$10,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Said administrative fines shall constitute a sewer service surcharge, and upon assessment, shall be subject to collection in the same manner as all other sewer utility rates, charges and penalties.

B. Unless other arrangements have been made with, and authorized by the director, unpaid charges, fines, and penalties shall accrue thereafter at a rate of one percent per month. After 90 days, if charges, fines, and penalties have not been paid, the city may revoke the user's discharge permit.

C. The city shall recover the costs of preparing administrative enforcement actions, such as notices and orders, including the cost of additional inspections, sampling and analysis, and may add them to the fine.

D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

#### **13.32.380 Emergency suspension of wastewater services.**

A. The director may immediately suspend wastewater services, including collection and treatment, after informal notice to the user, if it appears to the city that such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to either the environment, normal operation of the POTW, or the health or welfare of any person or the general public.

B. Any user notified of a suspension of its wastewater discharge shall immediately cease all such discharges. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or the danger to the public. The director may allow the user to recommence its discharge when the user has demonstrated that the period of endangerment has passed, unless termination proceedings pursuant to this chapter are initiated against the user.

C. It shall be unlawful for any person to prevent or attempt to prevent the director and/or city from terminating wastewater collection and treatment services in an emergency situation, by barring entry, by physically interfering with city employees or contractors, or by any other means.

D. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any administrative hearing authorized by this chapter.

E. Nothing in this section shall be interpreted as requiring an administrative hearing prior to any emergency suspension under this section.

#### **13.32.390 Termination of treatment services (nonemergency).**

A. The director shall have authority to terminate wastewater services, including collection and treatment, through the issuance of a termination order to any user upon determining that such user has:

1. Refused access allowed by this chapter thereby preventing the implementation of any purpose of this chapter;
2. Violated any provision of this chapter including the discharge prohibitions and standards of this chapter; or
3. Violated any lawful order of the city issued with respect to this chapter.

B. For users holding permits to discharge to the city POTW, violation of the following conditions is also grounds for terminating discharge services:

1. Failure to accurately report wastewater constituents or characteristics;
2. Failure to report significant changes in operations or wastewater constituents or characteristics; or
3. Violation of any term or condition of the user's waste discharge permit.

C. Issuance of a termination order by the city shall not be a bar to, or a prerequisite for, taking any other action against the user.

#### **13.32.395 Appeal procedures.**

##### **A. Appeals.**

1. Any user seeking to dispute a notice of violation, order, fine, or other action of the director may file an appeal.
2. The appeal must be filed in writing and received by the director, in writing, within 10 days of the receipt of the disputed action. If the notice of appeal is not received by the director within the 10-day period, the right to an appeal is waived. The notice of appeal shall state with particularity the basis upon which the appellant is disputing the action taken.
3. Upon receipt of a timely appeal, the director shall set a date and time for an appeal hearing in accordance with NBMC 2.20.080. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The appeal shall be heard by the city's hearing examiner.

##### **B. Appeal Hearing.**

1. The hearing examiner may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The hearing examiner shall give effect to the rules of privilege recognized by law. The hearing examiner may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Factual issues shall be resolved by a preponderance of evidence.

2. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.
3. Every party shall have the right to cross examine witnesses who testify and shall have the right to submit rebuttal evidence; provided, that the hearing examiner may control the manner and extent of the cross examinations and rebuttal.
4. The hearing examiner may take notice of judicially cognizable facts.

C. Appeal Conclusion. At the conclusion of the hearing, the hearing examiner shall determine if the disputed action was proper, and shall approve, modify, or rescind the disputed action. The final determination of the hearing examiner shall be in writing, and all parties shall be provided a copy of the final determination.

D. Administrative Costs. The appellant shall be responsible for all costs associated with conducting the appeal hearing including but not limited to advertisement, hearing examiner fees, reproduction costs, and other associated expenses.

E. Judicial Review of Appeal.

1. Any party, including the city, the Washington State Department of Ecology, the United States Environmental Protection Agency, or the user/appellant, is entitled to review of the final determination of the hearing examiner in the King County superior court; provided, that any petition for review shall be filed no later than 30 days after date of the final determination.
2. Copies of the petition for review shall be served as in all civil actions.
3. The filing of the petition shall not stay enforcement of the final determination except by order of the superior court and on posting of a bond to be determined by the court naming the city as beneficiary.
4. The review shall be conducted by the court without a jury. The record shall be satisfied by a narrative report certified by the hearing examiner and no verbatim record of proceedings before the hearing examiner shall be required to be presented to the superior court.
5. The court may affirm the final determination or remand the matter for further proceedings before the hearing examiner; or the court may reverse the final determination if the substantial rights of the petitioners may have been prejudiced because the final determination was:
  - a. In violation of constitutional provisions; or
  - b. In excess of the authority or jurisdiction of the hearing examiner.

#### **13.32.400 Injunctive relief.**

When the director finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, he/she may petition the King County superior court through the city attorney for the issuance of a temporary or permanent injunction, as appropriate. Such injunction shall restrain or compel specific compliance with an applicable wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

#### **13.32.410 Civil penalties.**

A. A user which has violated or continues to violate any provision of this chapter, an order issued hereunder, a wastewater discharge permit, or any other pretreatment standard or requirement not reserved by a permit by the department shall be liable to the city for a maximum civil penalty of \$10,000 per violation per day. Each day upon which a violation occurs or continues shall constitute a separate violation. In the case of noncompliance with a monthly or other long-term average discharge limits, penalties shall accrue for each day during the period of such noncompliance.

B. In addition to the penalty amounts assessable under subsection A of this section, the director may recover reasonable attorneys' fees, court costs, and other expenses associated with compliance and enforcement activities authorized under this chapter. This shall include recovery of costs for sampling and monitoring, and the cost of any actual damages incurred by the city of North Bend including penalties for noncompliance with the city of North Bend NPDES permit to the extent attributable to the user.

C. The city shall petition the King County superior court to impose, assess, and recover such sums. In recommending the amount of civil liability, the director shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires, and shall present this analysis as evidence in support of the recommended penalty.

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

#### **13.32.420 Criminal prosecution.**

A. A user which has willfully or negligently violates any provision of this chapter, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$10,000 per violation, per day, plus costs of prosecution or imprisonment in the county jail not to exceed one year, or by both fine and imprisonment, at the discretion of the King County superior court.

B. The above provision applies to any user which knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter.

C. Where willful or negligent introduction of a substance into the POTW causes personal injury or property damage, this action shall be in addition to any other civil or criminal action for personal injury or property damage available under the law.

#### **13.32.430 Remedies nonexclusive.**

The enforcement provisions of this chapter are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions concurrently or sequentially against a noncompliant user or to take other actions as warranted by the circumstances.

#### **13.32.440 Water supply severance.**

Whenever a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

#### **13.32.450 Public nuisances.**

A violation of any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person(s) creating a public nuisance shall be subject to the provisions of Chapter 6.04 NBMC governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

#### **13.32.460 Performance bonds and liability insurance.**

The director may decline to reinstate wastewater collection and treatment service to any user whose wastewater services were suspended or terminated under the provisions of this chapter, unless such user, at the sole discretion of the director, either: (1) first files with the city a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance; or (2) first submits proof that the user has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

#### **13.32.470 Innovative settlements and supplemental environmental projects.**

A. In any enforcement action allowed under this chapter, the director may recommend, and the city may agree to set aside all or portions of the recommended penalty amount in favor of requiring completion of a project of environmental benefit to the POTW of equal or greater value than the proposed penalty. Such projects must be proposed or agreed to in writing by the user.



B. In recommending this option, the director shall consider all relevant circumstances, including, but not limited to the following criteria: (1) the net environmental benefit, (2) the ability of the project to help achieve or ensure compliance, (3) the willingness of the party to change the circumstances that led to the noncompliance, and (4) the responsible party's technical and financial ability to successfully complete the project.

C. In enforcement actions taken by the department, the city may make written recommendations either for, or against, an innovative settlement agreement with a non-compliant user based on the above criteria.

#### **13.32.480 General prohibited discharge standards.**

A. The city may allow an affirmative defense to an enforcement action brought against a user for noncompliance with the general and specific prohibitions in NBMC 13.32.050(A) and (B)(3) through (7). An affirmative defense requires the user to prove to the satisfaction of the director that:

1. The user did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference; and
2. The discharge did not change substantially in nature or constituents from the industrial user's prior discharge when the city was regularly in compliance with its NPDES permit; and
3. In the case of interference, the user was in compliance with applicable sludge use or disposal requirements.

B. This defense does not relieve the user from responsibility for enforcement to recover costs as provided under this chapter.

#### **13.32.490 Upset.**

A. Users shall control production or all discharges to the extent necessary to maintain compliance with applicable pretreatment standards and requirements upon reduction, loss, or failure of its wastewater treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

B. A user who wishes to establish the affirmative defense of upset to an enforcement action brought for noncompliance with applicable pretreatment standards shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred; the user can identify the cause(s) of the upset; and it was not due to improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation; and
2. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

3. The user has submitted the following information to the POTW and the director within 24 hours of becoming aware of the upset. If this information is provided orally, the user must submit a written report within five days containing this same information:
  - a. A description of the indirect discharge and cause of noncompliance; and
  - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

C. Users will only have the opportunity for a judicial determination on a claim of upset in an enforcement action brought for noncompliance with applicable pretreatment standards. In any such enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

#### **13.32.500 Bypass.**

A. A user may allow a bypass to occur if it does not cause applicable pretreatment standards or requirements to be violated, and if it is for essential maintenance to ensure efficient wastewater treatment operations. These bypasses are subject to the provision of subsections B and C of this section.

B. Requirements for bypasses subject to pretreatment standards or requirements:

1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least 10 days before the date of the bypass, if possible.
2. A user shall give verbal notification to the director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours of becoming aware of the bypass, and submit a written report to the director within five days of becoming aware of the bypass.
3. The written report shall contain: a description of the bypass and its cause; the duration of the bypass, including exact dates and times; the anticipated time when any ongoing bypass it is expected to be halted; and, the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report if the verbal notification has been received within 24 hours.

C. Exceptions. Bypass is prohibited, and the POTW may take an enforcement action against a user for a bypass, unless:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage (as defined herein); and
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated or inadequately treated wastewaters, or maintenance

during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required, above, in subsection B of this section.

D. The director may approve an anticipated bypass, after considering its adverse effects, if he/she determines that it will meet all three conditions listed in subsection C of this section.

### **13.32.505 Pretreatment charges and fees.**

The director may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program. These fees relate solely to the matters covered by this chapter and are separate from all other rates or charges for sewer service; provided, that the city shall collect said charges in the same manner as other sewer utility rates are collected, including but not limited to the sewer lien procedures provided under Chapter 35.67 RCW.

A. Fees may include:

1. Fees for monitoring, inspection, surveillance and enforcement procedures including the cost of collection and analyzing a user's discharge;
2. Fees for reviewing and responding to accidental discharge procedures and construction;
3. Fees for preparing and executing enforcement action;
4. Fees for filing appeals;
5. Fees for high strength waste and industrial process flow; and
6. Other fees as the city may deem necessary to carry out the requirements contained herein.

B. Monitoring Fees. Fees for semiannual inspections and semiannual sampling events of categorical users and significant industrial users are set at \$100.00 per visit plus the cost of any lab fees. Any user establishing a pattern of noncompliance, or having a history of noncompliance, or suspected of being in noncompliance, may require additional monitoring visits as deemed appropriate by the director. Any additional inspections, sampling, surveillance monitoring activities, and analysis performed which detect noncompliance will be billed directly to the user.

C. Enforcement Actions. All expenses in preparing enforcement actions will be billed directly to the user.

D. High Strength Waste Fees. Users having effluent concentrations of BOD and/or TSS in excess of 250 mg/L may be billed a high strength waste surcharge. Surcharge rates will be established by the director, and based on cost of conveyance and treatment in the POTW.

E. Industrial Flow Surcharge. An industrial flow surcharge will be billed to significant industrial users and categorical users (and may be billed to other users where deemed appropriate by the director) and based upon the amount of industrial waste flow. The surcharge rate shall be determined at the time of permit application and shall be based upon the cost of administering the pretreatment program.

F. Direct Billing. All fees or charges will be collected by direct billing. Unless the director has been made aware of extenuating circumstances that would prevent prompt payment, all fees are payable within 30 days of the billing. Fees past due will be considered a violation of this chapter. Users not paying fees within 60 days of the billing period will be subject to termination of service. The director may change existing or adopt new fees.

## **CHAPTER 13.36**

### **STORMWATER UTILITY**

**Comment [ASB24]:** Previously 13.44; one minor change

#### **Sections:**

- 13.36.010 Title.**
- 13.36.020 Purpose.**
- 13.36.030 Applicability.**
- 13.36.040 Definitions.**
- 13.36.050 Rate structure.**
- 13.36.060 Equivalent service unit.**
- 13.36.070 Unit rate established.**
- 13.36.080 Service charge adjustments and appeals.**
- 13.36.085 Service charge adjustment calculation.**
- 13.36.090 Use of funds.**
- 13.36.100 Capital facilities charges.**
- 13.36.110 Capital facilities charge established.**
- 13.36.120 Lien for delinquent charges.**

#### **13.36.010 Title.**

This chapter shall be ~~itled~~ referred to as “The North Bend Stormwater Utility Ordinance.”

### **13.36.020 Purpose.**

It is the purpose of this chapter to provide for revenue for a city of North Bend stormwater management program to plan, manage, construct, maintain, use, and carry out activities related thereto. This chapter provides these revenues by fixing rates and charges pursuant to RCW 35.67.020. There is hereby created an enterprise fund known as the “City of North Bend Stormwater Fund.” All fees and charges imposed herein shall be placed in said fund for the purpose of paying any and all expenses related to the acquisition, installation, addition, improvement, replacement, repair, maintenance, operation, or administration of stormwater management program facilities and activities.

### **13.36.030 Applicability.**

The requirements of this chapter shall apply to all parcels of real property in the city of North Bend, including publicly and privately owned property.

### **13.36.040 Definitions.**

“Capital facilities charge” shall mean the charge levied for a pro rata share of the existing physical stormwater system and future stormwater system as represented in the comprehensive stormwater management plan, as now in effect or as may be subsequently amended.

“City” shall mean the city of North Bend, Washington, or as indicated by the context, may mean any official, officer, employee or agency representing the city in the discharge of his or her duties.

“City roads” shall mean public rights-of-way, excluding state and county roads, in the city of North Bend.

“Developed parcel” shall mean a parcel of real property which has been altered by development coverage.

“Equivalent service unit (ESU)” shall mean a configuration of impervious surface estimated to contribute an amount of runoff to the city’s stormwater management system which is approximately equal to that created by the average single-family residential developed parcel in North Bend.

“Impervious surfaces” shall mean hard surfaced areas that prevent or hinder the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow than under natural conditions. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt roads, sidewalks and paving, walkways, patio areas, driveways, parking lots or storage areas and gravel, hard-packed dirt, oiled or other surfaces which similarly impede the natural infiltration of stormwater, or runoff patterns existent prior to development.

“Manager” shall mean the city administrator or his or her designee.

“Parcel” shall mean the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which constitutes a separate lot or tract capable of being conveyed without further subdivision.

“Service charges” shall mean the amount owed after applying the appropriate rate to a particular parcel of real property based upon factors established by this chapter.

“Single-family residence” shall mean a residential structure accommodating one dwelling unit, including mobile homes, as defined by the city of North Bend land use codes.

“Undeveloped land” shall mean unimproved land and open space as defined by the city of North Bend land use codes.

“Undeveloped parcel” means any parcel of real property which has not been altered by grading or filling of the ground surface, or by construction of any improvement or other impervious surface area which affects the hydraulic properties of the parcel.

“Unit rate” shall mean the dollar amount charged per ESU.

#### **13.36.050 Rate structure.**

The rates and service charges shall be based on the service provided and the relative contribution of stormwater runoff from a given parcel to the stormwater control facilities. The estimated or measured impervious surface area will be used to determine the relative contribution of stormwater runoff from the parcel.

Service charges shall be determined as described below:

- A. Undeveloped Parcels. Undeveloped parcels shall not be charged.
- B. Single-Family Residential Parcels. The monthly service charge for each single-family residential parcel shall be the unit rate for one equivalent service unit.
- C. Other Developed Parcels. The monthly service charge for all other developed parcels, including publicly owned properties and including public streets, shall be computed by multiplying the unit rate times the number of equivalent service units applicable to the parcel minus any approved rate adjustment for the parcel as determined under NBMC 13.36.075 and 13.36.085.
- D. Minimum Charge. There shall be a minimum monthly service charge for all developed properties equal to the unit rate.

#### **13.36.060 Equivalent service unit.**

One equivalent service unit is established at 2,920 square feet of impervious surface area. For the purpose of computation of service charges, the number of equivalent service units shall be rounded to the nearest tenth.

### **13.36.070 Unit rate established.**

A unit rate is established by the taxes, rates and fees schedule adopted by ordinance, to be made up of a stormwater rate per month per equivalent service unit or single-family residence plus a floodplain management rate surcharge per month per equivalent service unit or single-family residence, in order to further address flooding issues directly or indirectly related to surface and stormwater within the city.

### **13.36.080 Service charge adjustments and appeals.**

Any person billed for service charges may file a “request for service charge adjustment” with the manager. However, submittal of such a request does not relieve that person from paying any service charges due during the request consideration period.

A request for service charge adjustment may be granted by the manager only when one or more of the following conditions exist:

- A. The amount charged is in error; or
- B. The parcel is nonresidential and the impervious surface area on the parcel, as established by a licensed surveyor or engineer, is more than 10 percent of an equivalent service unit greater than or less than the impervious surface area used in determining the charge; or
- C. The parcel includes constructed or natural on-site stormwater mitigation facilities that meet all of the following conditions:
  - 1. The constructed or natural facilities provide either stormwater runoff rate control or treatment or both; and
  - 2. The manager has determined that the property owner is capable of maintaining and operating the facilities; and
  - 3. The facilities are maintained by the property owner to the city’s permitted design specifications; and
  - 4. The facilities are available for inspection by the city; and
  - 5. The runoff rate control facility capacity, if applicable, for the 100-year storm event is at least 110 percent of the required design capacity, the excess capacity is not used by the property owner, the facility is hydraulically accessible by means of gravity flow from public improvements facilities lacking runoff control, and the excess is available to the city, at no charge, for related public purposes.

The request for adjustment shall be in writing. The request shall be accompanied by a copy of the permitted drainage plan, a copy of the approved hydraulic calculations for the permitted facilities, calculations of the requested adjustment based on site-specific data signed and stamped by a licensed civil engineer, information, as required by the manager, to determine that the property owner is willing and has the capacity to maintain the facility, and an agreement from

the property owner making available to the city any excess capacity in the runoff rate control facility.

Under no circumstances shall the amount of the adjustment exceed either the amount of cost savings to the utility or the unadjusted service charge. Service charge adjustments will only apply to the bill due and payable at the time of request and bills subsequently issued. The property owner shall have the burden of proving that the service charge adjustment should be granted.

The adjustment is revocable under conditions where the facilities no longer operate at the design level established during the drainage plan review/approval process, or if any of the conditions in this subsection C are no longer met.

Decisions on requests for service charge adjustments shall be made by the manager based on information submitted by the applicant and shall be made within 30 days of the adjustment request, except when additional information is needed. The applicant shall be notified in writing of the manager's decision. If an adjustment is granted which reduces the service charge, the applicant shall be credited the amount overpaid in subsequent bills.

If the manager finds that a service charge bill has been undercharged, then either an amended bill shall be issued which reflects the increase in service charge, or the undercharged amount will be added to the next bill. This amended bill shall be due and payable under the provisions set forth in NBMC 13.36.050.

Decisions of the manager on requests for service charge adjustments shall be final unless appealed within 30 days of the date of the manager's decision. The appeal of the manager's decision must be mailed to the King County superior court.

#### **13.36.085 Service charge adjustment calculation.**

The service charge adjustment shall be the greater of the adjustments for (1) excess on-site retention/detention volume or (2) on-site runoff quality treatment. The adjustments shall be calculated as follows:

- A. Excess Retention/Detention Volume Calculation. The calculation shall be based on the retention/detention facility design release rate to accommodate the 100-year storm runoff event. For facilities designed using the Santa Barbara Urban Hydrograph Method, the calculation shall be based on the facility design release rate to accommodate the 100-year storm runoff event before adding the 30 percent factor of safety. For facilities designed using the KCRTS Method, the calculation shall be based on the facility design release rate to accommodate the 100-year storm runoff event before adding the 20 percent factor of safety. The adjustment formula is expressed mathematically as follows:

$$A = 0.9 \times F \times (1 - (Q_r/Q_d))$$

Where:

A = The adjustment amount to be subtracted from the monthly fee;



F = The total monthly charge without the adjustment;

Qr = The designed 100-year storm event release rate before the factor of safety pond volume adjustment;

Qd = The 100-year storm event runoff rate from the site in its predeveloped condition.

- B. Runoff Quality Treatment Calculation. The quality treatment adjustment is only applicable when treatment facilities are constructed in accordance with the King County Surface Water Design Manual to treat all applicable on-site impervious areas. The adjustment is expressed mathematically as follows:

$$A = F \times 0.1$$

#### **13.36.090 Use of funds.**

Service charges collected under this chapter shall be deposited into a special fund or funds to be used only for the purpose of paying all or any part of the cost and expense of maintaining and operating stormwater control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing, maintaining and improving the stormwater management program and drainage facilities. Proceeds from the floodplain management rate surcharge shall be used only for initial floodplain management planning, coordination, and funding acquisition.

#### **13.36.100 Capital facilities charges.**

A. The capital facilities charge for property owners other than the city of North Bend seeking to develop real property within the boundaries of the city shall be:

1. Single-Family Residential Parcels. The capital facilities charge for each single-family residential parcel shall be one equivalent service unit, and shall be referred to as the “base charge.” Areas within single-family residential short plats or subdivisions that are outside of new single-family lots to be created through the short plat or subdivision (i.e., new rights-of-way, parks, tracts, etc.) shall be subject to the charge established under subsection (A)(2) of this section.
2. Other Parcels. The capital facilities charge for all other parcels, including publicly owned properties but excluding public streets, shall be computed by multiplying the base charge times the number of equivalent service units applicable to the parcel upon development. The formula is expressed mathematically as follows:

Capital facilities charge = Base charge multiplied by the number of equivalent service units

3. Minimum Charge. There shall be a minimum capital facilities charge for all developing properties equal to the base charge.

B. Capital Facilities Charge – Proceeds. All proceeds of the stormwater capital facilities charge shall be placed in the stormwater capital improvements fund for the following uses: construction of stormwater expansion made necessary by system growth, debt service for indebtedness resulting from construction of stormwater expansion made necessary by system growth, and the repair, replacement, and maintenance of existing stormwater facilities.

#### **13.36.110 Capital facilities charge established.**

A capital facilities base charge is established by the taxes, rates and fees schedule ordinance. The capital facilities base charge shall be adjusted on an annual basis on January 1st of each year using the Engineering News Record (ENR) Construction Cost Index for the Seattle area. The indexing shall be based on the December 2001 index of 7335.00 (accordingly establishing the base charge at \$679.31 as of the effective date of the ordinance codified in this section).

#### **13.36.120 Lien for delinquent charges.**

Delinquent service charges shall bear interest at the rate established by the taxes, rates and fees schedule adopted by ordinance, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the charges regardless of when the charges were first delinquent.

The city shall have a lien for delinquent service charges, including interest thereon, against any property subject to service charges; the lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such liens shall be effective and shall be enforced and foreclosed in the manner provided by RCW 35.67.200 and 35.67.210 as now in effect or as may be subsequently amended.

### **Chapter 13.40**

## **UTILITY BILLING AND COLLECTION OF UTILITY CHARGES**

**Comment [ASB25]:** Title revised and minor change to -.010

### **Sections:**

- 13.40.010 Title.**
- 13.40.020 Definitions.**
- 13.40.030 Billing – Delivery.**
- 13.40.040 Utility billing – Payment required on due date.**
- 13.40.050 Shutoff notice delivery, door hanger and collection agency.**
- 13.40.060 Shutoff notice – Contents.**
- 13.40.070 Shutoff notice – Additional service charge.**
- 13.40.080 Hearing – Notice.**
- 13.40.090 Hearing – Procedure.**

- 13.40.100 Decision of utility hearing examiner.**
- 13.40.110 Discontinuance of utility services.**
- 13.40.120 Reconnection – Payment required.**
- 13.40.130 Unauthorized reconnection – Meter removal – Charges.**
- 13.40.135 Vacancy and temporary shutoffs.**
- 13.40.140 Allocation of partial payments.**
- 13.40.150 Authority of city to require cash payment.**
- 13.40.160 Landlord liability.**
- 13.40.170 Deposit to general fund.**
- 13.40.180 Charge-off of uncollectible utility charges.**
- 13.40.190 Low income senior citizen discount.**
- 13.40.192 Disabled low income citizen discount.**
- 13.40.194 Application for discount.**
- 13.40.196 Requirements for eligibility for discount.**

**13.40.010 Title.**

~~The ordinance codified in this chapter shall be known as the “North Bend Utility Billing and Collection of utility charges ordinance for the city of North Bend” and may be cited as such.~~

**13.40.020 Definitions.**

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section:

- A. “Combined utility billing” means a bill for water, sewer, stormwater, floodplain management, garbage and/or other utility services provided by the city at rates established by city ordinance. Capital improvement charges, meter charges, connection charges, reconnection charges, turn-off charges and other similar charges provided for by city ordinance may be included in the combined utility billing.
- B. “Customer” means the owner of the property to which utility services are provided, or the consumer of utility services or other person designated on the billing address shown in the files of the city clerk’s office.

- C. “Delinquency date” means the tenth day of the month following the statement date when a combined utility bill remains unpaid.
- D. “Due date” means the fifteenth day following the statement date when all outstanding combined utility billing balances must be paid in full.
- E. “Statement date” means the tenth day of each month unless that date is a weekend day or legal holiday, in which case the next business day.
- F. “Shutoff notice” means a notice delivered to a customer after a delinquency date to provide them with notice of account delinquency and service discontinuance for nonpayment and advising them of the process to dispute the combined utility billing.
- G. “Utility hearing examiner” means a person designated by the mayor to hear and decide billing disputes between the city and its utility customers.

**13.40.030 Billing – Delivery.**

A. Combined utility billings shall be delivered to the customer by depositing the same in the United States mail, first class, directed to the address shown on the application for utility service submitted by the customer to the city or on the change of address submitted by the customer to the city. Customers shall be responsible for furnishing the city with their current and correct address for billing purposes.

B. Deposit in the United States mail pursuant to subsection A of this section shall be deemed full and complete notice to the customer of the nature and amount of any particular billing.

**13.40.040 Utility billing – Payment required on due date.**

The combined utility billing shall be paid in full on the due date.

**13.40.050 Shutoff notice delivery, door hanger and collection agency.**

A. After the delinquency date, the city shall provide a shutoff notice to the customer of account delinquency and service discontinuance pursuant to NBMC 13.40.060. Shutoff notice shall be given by depositing it in the United States mail, postage prepaid, directed to the last known address of the customer as shown on the records of the city, at least 10 calendar days prior to the date of intended termination. Deposit in the United States mail pursuant to subsection A of this section shall be deemed full and complete notice to the customer of the delinquent account.

B. Door Hanger. On-premises notice (door hanger) of any impending water service shutoff may be posted up to 48 hours in advance of such water service shutoff.

C. Collection Agency. Any delinquent and unpaid utility account may be given to a collection agency for collection.

#### **13.40.060 Shutoff notice – Contents.**

The shutoff notice of account delinquency and service discontinuance shall include the following information:

- A. The name of the customer and the address to which the utility service is being provided;
- B. The account number;
- C. Total amount due and owing including delinquent amount;
- D. Notice that all city utility services shall be terminated upon failure to pay the shutoff notice billing in full within 10 days of the date of the mailing of the notice;
- E. Notice that the customer has the right to request a hearing before a utility hearing examiner.

#### **13.40.070 Shutoff notice – Additional service charge.**

There shall be an additional service charge as established by the taxes, rates and fees schedule adopted by ordinance, added to a delinquent account as a result of the necessity for sending out the shutoff notice. Such amount must be paid in addition to the delinquent amount in order to avoid the utility shutoff.

#### **13.40.080 Hearing – Notice.**

Within two days of receipt of the customer's request for a hearing pursuant to NBMC 13.40.060, the examiner shall fix the time and place of the hearing. The examiner or his/her designee shall give written notice to the customer of the date, time and place of the hearing by depositing such notice in the United States mail, first class, addressed to the customer at his last known address as shown on the city records, at least five calendar days prior to the date of the hearing. Notice of the hearing shall also be posted on a conspicuous part of the premises at least three days prior to the hearing.

#### **13.40.090 Hearing – Procedure.**

At the hearing provided for in NBMC 13.40.080, the customer and the city shall have the right to present such evidence as is pertinent to the issues, to be represented by counsel, to submit exhibits and to examine and cross-examine witnesses. However, the hearing shall be conducted informally, and formal rules of evidence shall not be followed. The purpose of the hearing shall be restricted solely as the issue of whether or not the amount alleged to be due and owing is in fact due and owing.

#### **13.40.100 Decision of utility hearing examiner.**

Within one calendar day after the hearing, the utility hearing examiner shall make his written decision and deposit a copy of the decision in the United States mail, first class, to the customer at his/her last known address as shown on the city records. In the event the utility hearing

examiner finds that the city utility services shall be discontinued, his written decision shall specify the delinquent amount and shall notify the customer that if the customer fails to pay that amount in full within 24 hours of the date of the written decision, all city utility services shall be terminated without further notice; provided, in the event of a disputed water and/or sewer services account and tender to the city administrator by the customer of the amount he claims to be due before the water and sewer services are terminated, the city shall not terminate the water or sewer service until a suit has been filed by the city and judgment entered therein in the city's favor.

#### **13.40.110 Discontinuance of utility services.**

City utility departments are authorized to discontinue and disconnect utility services to any customer pursuant to the procedures set out in this chapter. Discontinuance and disconnection shall incur a shutoff charge as specified in the taxes, rates and fee schedule adopted by ordinance. Customers shall remain responsible for furnishing the city with the current, correct address for billing purposes.

#### **13.40.120 Reconnection – Payment required.**

When utility service has been involuntarily terminated, it will not be resumed until all utility charges due to the city have been paid in full. Reconnection of service shall incur a turn-on charge as specified in the taxes, rates and fees schedule, adopted by ordinance.

#### **13.40.130 Unauthorized reconnection – Meter removal – Charges.**

In the event a city utility service which has been voluntarily or involuntarily terminated is reconnected without city approval and by other than city personnel, the city shall have the right to remove the meter and so much of the service installation as the city deems appropriate under the circumstances. Resumption of service upon removal of the meter and/or other service apparatus shall require advance payment of the city's actual cost of meter and equipment removal and reinstallation.

#### **13.40.135 Vacancy and temporary shutoffs.**

A. Vacancy Shutoff. Owners may request discontinuance of water and sewer service for periods of known vacancy not less than one calendar month or longer than six calendar months in duration. To request discontinuance, the city must be notified in writing of the date to discontinue service and the date to resume service. Only accounts then paid in full shall be permitted a vacancy discontinuance of service. Shutoff and turn-on charges shall apply as set forth in this title. At the end of the requested discontinuance period, base service fees shall be reinstated.

B. Temporary Shutoff. Owners may request temporary shutoff of water services when it is necessary for performing home maintenance, yard maintenance, or any other reason the owner deems appropriate. For shutoffs and turn-ons scheduled during regular city business hours, owners shall be billed a shut-off charge and turn-on charge as specified in the city's taxes, rates and fee schedule, adopted by ordinance. A higher charge, as specified in the city's taxes, rates

and fee schedule, shall apply for expedited shutoff requests and for after-hours shutoff. No portion of the owner's bill shall be credited as a result of a temporary shutoff.

**13.40.140 Allocation of partial payments.**

Whenever any partial payment of a utility billing is received, the amount paid shall be credited to outstanding charges in the following order of priority:

- A. Interest;
- B. Penalties;
- C. Taxes;
- D. Garbage;
- E. Sewer;
- F. Water;
- G. Stormwater;
- H. Floodplain management.

**13.40.150 Authority of city to require cash payment.**

The city reserves the right to require payment by cash or certified funds from any customer who has previously tendered a dishonored check.

**13.40.160 Landlord liability.**

Owners of leased premises served by the utilities furnished by the city are liable for payment of the cost of any utilities furnished by the city to such premises. Utility service shall only be furnished upon the application and request of the owners of the premises. Owners of any leased premises, or the owners' agent if leasing is through an agent, shall be notified of delinquency in the same manner as notice is provided to the customers pursuant to NBMC 13.40.050 and 13.40.060.

**13.40.170 Deposit to general fund.**

All late fees, interest and returned check charges for any city of North Bend water, sewer, stormwater, floodplain management, or sanitation customer account shall be paid into the city of North Bend general fund as reimbursement to the city for the cost of processing late payments and returned checks.

**13.40.180 Charge-off of uncollectible utility charges.**

The finance director, or his/her designee, may charge off any utility charge, penalty, or interest that is owed by a ratepayer, if the finance director, or his/her designee, reasonably ascertains that

the cost of collecting such amounts would be greater than the total amount that is owed or likely to be collected from the ratepayer. Charge-offs in excess of \$500.00 shall first require city council approval.

**13.40.190 Low income senior citizen discount.**

Low income senior citizens who meet the requirements set forth in NBMC 13.40.194 and 13.40.196 shall be entitled to a reduction in the city's water, sewer, stormwater and floodplain management service charges as established by the city by ordinance.

**13.40.192 Disabled low income citizen discount.**

Low income disabled citizens who meet the requirements set forth in NBMC 13.40.194 and 13.40.196 shall be entitled to a reduction in the city's water, sewer, stormwater and floodplain management service charges as established by the city by ordinance. For the purposes of this chapter, a disabled citizen is a person who is disabled as defined by the Social Security Administration and who receives Social Security benefits, or any other benefits, for that disability from any governmental source.

**13.40.194 Application for discount.**

In order to qualify for the rate reductions set forth in NBMC 13.40.190 and 13.40.192, a person must file an application for the reduction with the city administrator or his/her designee prior to January 1st of the year for which the rate reduction is desired. Persons qualifying for the discount after the first of the year may apply at any time at least 30 days prior to the billing date upon which the rate reduction is to be effective. Applicants must meet the requirements for eligibility set forth in NBMC 13.40.196. The city may require the application to be updated on an annual basis.

**13.40.196 Requirements for eligibility for discount.**

A. The rate reduction shall only apply to utility charges for service to a residence. The residence for which the rate reduction is requested must be the applicant's principal place of residence. The residence may be any single-family, duplex, triplex, or other multifamily residential dwelling unit inside the city limits that is supplied by a separate meter service connection.

B. The utility account must be in the applicant's name or the name of the applicant's spouse, or in the name of a cooperative or condominium association. In situations where the utility account is in the name of a cooperative or condominium association, that organization must guarantee to the city that the full benefit of any rate reduction shall be received by the qualifying individuals under NBMC 13.40.190 or 13.40.192.

C. Nonresident property owners may obtain the reduction if the premises are rented to a qualified applicant under NBMC 13.40.190 or 13.40.192 and the owner certifies that the full benefit of any rate reduction shall be received by the qualifying renter.

D. No person may claim a rate reduction for more than one dwelling unit during the same billing period.



E. The rate reduction authorized by NBMC 13.40.190 shall not be used in conjunction with the rate reduction authorized by NBMC 13.40.192.

F. For purposes of this chapter, a “senior citizen” is a person who is at least 65 years of age on the date of the person’s application for a utility rate reduction under this chapter.

G. For purposes of this chapter, “low income” means that the person has a combined disposable income in an amount that would qualify the person for property tax exemption under RCW 84.36.381(5)(b). “Combined disposable income” shall be defined as stated in RCW 84.36.383.